

(1944) 12 AHC CK 0010

Allahabad High Court

Case No: None

District Board

APPELLANT

Vs

Lala Gyan Prasad

RESPONDENT

Date of Decision: Dec. 8, 1944

Citation: AIR 1945 All 307 : (1945) 15 AWR 26

Hon'ble Judges: Wali Ullah, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Wali Ullah, J.

This is a defendant's appeal. It arises out of a suit for declaration that the defendant District Board was not entitled to make bye-law No. 16 u/s 174, District Boards Act of 1922, in respect of the plaintiff's groves standing over plots Nos. 4376 and 4229 and that the plaintiff was entitled to let out his groves without any interference from the District Board. The defence set up by the District Board inter alia was that the bye-law in question was validly made under the powers conferred by Section 174, District Boards Act, and that it was applicable to the groves of the plaintiff. The Court of first instance held that the bye-law in question was within the competence of the District Board and that it was applicable to the groves in dispute. The suit was accordingly dismissed with costs. On appeal the lower appellate Court has recorded these findings:

(1) That the groves of the plaintiff lie adjacent to the land over which the Nauchandi fair is held and (2) that the bye-law in question could be applicable only to the land over which the Nouchandi fair is held but it could not be applicable to the groves in suit which lie adjacent to the land of the Nauchandi fair.

It was further of the opinion that the groves in question were not within the rural area of the district over which alone the District Board had authority to make the bye-law applicable. In view of these findings it held that the bye-law in question was

ultra vires so far as the groves in question were concerned. It allowed the appeal and decreed the suit with costs throughout." It has been contended before us that the view taken by the lower appellate Court with regard to the competence of the District Board for framing bye-law No. 16 is unsound. It may be mentioned here that it is a matter of admission that the groves in question belong to the plaintiff and are situated within the municipal limits of Meerut. Section 174, District Boards Act, under which the bye-law in question has been framed authorises the District Board to

make bye-laws applicable to the whole or any part of the "rural area" of the district...for the purpose of promoting or maintaining the health, safety and convenience of the inhabitants of such area and for the furtherance of the administration of the district under this Act.

2. Section 174, Clause (2), sub Clause (m), also specifically authorises the District Board to make bye-laws "regulating fairs, agricultural shows and industrial exhibitions held under the authority of a board." The expression "rural area" is defined in Section 3, Sub-clause (10) of the Act, as meaning

the area of a district excluding every municipality as defined in the U.P. Municipalities Act, 1916, and every cantonment as defined in the Cantonment Act, 1910.

3. It might further be noted that the preamble to the Act restricts the operation of the Act to "rural areas" only. It thus appears obvious that the powers of the District Board to make bye-laws u/s 174, are confined to the whole or any part of the "rural area" of the district over which it might have its jurisdiction. In view of the findings recorded by the lower appellate Court, it is clear that the groves in question fall outside the scope of bye-law No. 16 and outside the ambit of the Act under which these bye-laws purport to have been framed. The result is that the appeal is dismissed with costs.