

Bachu Lal and Others Vs L. Dharam Deo Lal and Others

Court: Allahabad High Court

Date of Decision: March 12, 1930

Hon'ble Judges: Dalal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Dalal, J.

In my opinion no revision lies. The only power of revision given to the High Court is by Section 253, Agra Tenancy Act.

The High Court may call for the record of any suit or application which has been decided by any subordinate revenue Court and in which an

appeal lies to the District Judge and in which no appeal lies to the High Court and if such subordinate revenue Court appears:

(a) to have exercised a jurisdiction not vested in it by law, or (b) to have failed to exercise a jurisdiction so vested, or (c) to have acted in the

exercise of its jurisdiction illegally or with material irregularity, the High Court may pass such order in the case as it thinks fit.

2. In the present case the District Judge has made a remand under Order 41, Rule 23 to the Assistant Collector and this order in remand is sought

to be revised by this Court. Previously it appears that counsel made an attempt to lodge an appeal from such an order just as on the civil side an

appeal from such an order is permitted under the Civil Procedure Code. It was pointed out by a Bench of this Court in Dwarka Prasad and

Another Vs. Ojha Dariao Singh, that no such appeal lay. When it has been held that an appeal did not lie, an application in revision is being

attempted. The provisions of Section 253 do not cover an order in remand passed by a District Judge. The Court of Districts Judge is not a

revenue Court as will appear from the description of grades of Court given in the Act from Section 234 to Section 239. The Court of Assistant

Collectors and Collectors are those understood by the term ""subordinate revenue Court"" in Section 253. A commentary was shown to me in

which the commentator was of opinion that an order in remand by a District Judge would be open to revision by the High Court. The commentator

appears to me to have been misled by the identity of grounds as to revision in Section 253 with the grounds of revision in Section 115, Civil P.C. I

do not think however that the provisions of Section 253 are identical with those of Section 115, Civil P.C. There can be no doubt as to the

language of the section. First of all reference is made to a decision by a subordinate revenue Court in which an appeal lies to the District Judge.

The power of revision is given with respect to the decision of such subordinate revenue Court, and not with respect to the decision of the District

Judge on appeal from the decision of any subordinate revenue Court. It appears that the legislature contemplated that the matter should wait until

there was a final decision. There is permitted an appeal from an appellate decree of a District Judge u/s 246 of the Act. This application is

dismissed with costs.