

(1963) 05 AHC CK 0012

Allahabad High Court

Case No: Civil Revision No. 426 of 1963

Baroo

APPELLANT

Vs

Shingram and Another

RESPONDENT

Date of Decision: May 1, 1963**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Section 96
- Uttar Pradesh Panchayat Raj Act, 1947 - Section 89(2)

Citation: AIR 1964 All 347**Hon'ble Judges:** S.D. Singh, J**Bench:** Single Bench**Advocate:** K.C. Agarwal, for the Appellant;**Final Decision:** Dismissed

Judgement

S.D. Singh, J.

This revision arises out of a suit originally filed in the Nyaya Panchayat. After the suit was decreed by the Nyaya Panchayat, a revision was filed before Munsif, Muzaffarnagar, u/s 89 of the U. P. Nyaya Panchayat Raj Act, 1947. The Munsif quashed the decree passed by the Nyaya Panchayat and proceeded to try the suit himself under Clause (d) of Sub-section (2) of Section 89. The suit was ultimately decreed. The defendants filed an appeal which was allowed by the Additional Civil Judge, Muzaffarnagar, and the suit dismissed. This is how the plaintiff has come in revision.

2. The contention of the applicant was that the Munsif heard the suit in exercise of his jurisdiction as a court of revision u/s 89 of the U. P. Panchayat Raj Act, 1947, and consequently the decree passed by him was not appealable, and that the Civil Judge entertained and heard the appeal without jurisdiction.

3. The contention of the applicant has, however, no force. It is true that when the Munsif quashed the decree passed by that Nyaya Panchayat, he exercised his jurisdiction as a court of revision under Clause (a) of Sub-section (2) of Section 89. Clause (d) of the same sub-section entitled him to try the suit, himself. But the Munsif having decided to try the suit himself, it cannot be said that he even heard and decided the same as a court of revision. Once the Munsif decided to try the suit himself, he proceeded thereafter as a court of original jurisdiction, though jurisdiction in the case was vested in him under Clause (d) of Sub-section (2) of Section 89 of the Act. The decree passed by the Munsif will be governed by Section 96 C. P. C. and appealable just as any other decree passed by him, unless the decree is made non-appealable under any specific provision of law. There is no provision in the U. P. Panchayat Raj Act making a decree passed by a Munsif under these circumstances non-appealable. The appeal did, therefore, lie to the District Judge and the Civil Judge had jurisdiction to hear the same.

4. It was next contended that even if the Munsif did not try the suit as a court of revision, his jurisdiction would be that of a small causes court and no appeal would lie against his decree, on that account. Even this contention has no force. There is no provision either in the U. P. Panchayat Raj or elsewhere that when the Munsif decides to try the suit under Clause (d) of Sub-section (2) of Section 89 aforesaid, he would sit as a Judge of a Small Cause Court.

5. The application in revision has no force and is consequently dismissed.