

(1899) 12 AHC CK 0006

Allahabad High Court

Case No: None

Abdur Rahim

APPELLANT

Vs

The Municipal Board of Koil

RESPONDENT

Date of Decision: Dec. 16, 1899

Citation: (1900) ILR (All) 143

Hon'ble Judges: Burkitt, J; Blair, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Burkitt and Blair, JJ.

In this appeal various questions have been argued before us, and amongst others the question as to whether any suit having for its object to obtain a declaration that the plaintiff is entitled to have his name entered in the lists of electors or candidates could lie against the Municipal Board. We do not propose to decide any of those questions. We are of opinion that the appeal must fail on the short ground that the suit has been brought against the wrong party. The plaintiff's allegation is that by reason of certain tortious acts committed by the revising authority his name was wrongfully struck off the list of persons qualified to stand as candidates for election to the Municipal Board at the next election. This the plaintiff alleged as done at the instigation of, and with a view to please and show partiality to, a disappointed candidate. It is admitted for the plaintiff that he had a remedy by application to the District Magistrate (who had power to revise and amend the list prepared by the revising authority), but that he did not avail himself of that remedy.

2. We are clearly of opinion that if the plaintiff had any right of suit, as to which we express no opinion, his suit should have been instituted against the persons of whose alleged wrongful acts and misconduct he complains, namely, the persons who constituted the revising authority, and that the suit, if maintainable at all, would lie against them personally for the individual acts done by them. The revising authority had the duty imposed on it of preparing the lists of voters and candidates,

subject to the final orders of the District Magistrate, and if the members of that body are responsible to any Court for wrongful acts done by them in the performance of that duty they are responsible as individuals. The Municipal Board in its corporate capacity is not answerable for the misconduct and wrongful acts of the revising authority in preparing the lists. It has no control over or power of amending those lists. The Magistrate of the District is the only authority by which those lists can be revised or amended.

3. For the above reasons we are of opinion that this appeal fails. We therefore dismiss it with costs.