

(1956) 02 MP CK 0001

Madhya Pradesh High Court

Case No: First Appeal No. 41 of 1955

Matadin Babadin and
others

APPELLANT

Vs

State of Vindhya
Pradesh and others

RESPONDENT

Date of Decision: Feb. 22, 1956

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 80
- Court Fees Act, 1870 - Section 7(v), 8
- General Clauses Act, 1897 - Section 3(60)
- Land Acquisition Act, 1894 - Section 4, 52, 6

Hon'ble Judges: Jagat Narayan, J.C.

Bench: Single Bench

Advocate: Sant Kumar Vakil, for the Appellant; Meheshwari Prasad Srivastava Govt. Advocate and Moti Lal Verma Abst. Govt. Advocate, for the Respondent

Judgement

Jagat Narayan, J.C.

1. This is an appeal by the plaintiffs against a decree of the Additional District Judge Panna dismissing their suit for possession over 27 plots on some preliminary grounds. I have heard the Learned Counsel for the parties.
2. The words "anything done in pursuance of this Act" occurring in S. 52 of the Land Acquisition Act 1894 refer to tortious act done under the enactment. No notice is therefore necessary under this section in the present case: "Ezra v. Secy, of State", 30 Cal 73 (A).
3. O. 1 R. 1, C.P.C. provides that all persons may be joined in one suit as plaintiffs in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally, or in the alternative, where, if such persons brought separate suits, any common question of law or fact would

arise. The present suit is covered by this rule. There was one notification under S. 4 with regard to all the plots in suit and all the plaintiffs were dispossessed by the same order,; see. "Khir Singh v. Brij Lal", 1949 Nag 314 (AIR V 36) (B). There is thus no misjoinder of parties or causes of action in the present suit.

4. The real relief which the plaintiffs seek is possession over plots in dispute. That relief can only be granted if it is held that the proceedings for their acquisition which had taken place are not valid. It is really not necessary for the plaintiffs to seek relief of declaration. Court-fee is not payable on such a superfluous relief. Proper court-fee has been paid on the relief of possession and on the relief of mesne profits.

5. The present suit falls under S. 7(v) of the Court-Fees Act. Section 8 of the Suits Valuation Act is therefore not applicable to it. It was open to the plaintiffs to value their suit at Rs. 2000/- for purposes of jurisdiction as they have done. It was rightly instituted in the court of the Additional District Judge, Panna.

6. What is to be determined in the present suit is whether on the date on which it was instituted the possession of the defendant over the land in suit was valid or invalid. By then no notification under S. 6 of the Land Acquisition Act had been published. When statutory rights of an exceptional character have been created the conditions prescribed by the Statute for the exercise of such rights must be strictly fulfilled.

The defendant had no right to take possession over the plots in dispute and the property in them did not pass from the plaintiffs till the present suit was instituted. The jurisdiction of the civil Court to entertain the present suit is not barred under any provision of law.

7. The suit was brought against the State of Vindhya Pradesh and notice was served on the Deputy Commissioner, Panna. An objection was taken on behalf of the State that the suit should have been brought in the name of the Union of India. In Review Application No. 15 of 1955 decided on 2-2-56 it was held that the State of Vindhya Pradesh is a legal entity but that in a suit brought against it the authority to be named as defendant should be the Union of India. The plaintiffs intended to sue the State of Vindhya Pradesh.

All that they did was that instead of describing the defendant as Union of India they described it as the State of Vindhya Pradesh. This is merely a case of misdescription of the defendant. An application for amendment was moved on behalf of the appellant. It was not opposed on behalf of the State and was allowed. The Union of India has been joined as a defendant. The notice served under S. 80, C.P.C. on the Deputy Commissioner, Panna is a sufficient notice against the Union of India also under sub-s. (c) of S. 80, C.P.C. which runs:

In the case of a suit against a State Government the Collector of that District.

8. Under S. 3(60) of the General Clauses Act State Government in a Part C State means the Central Government. Adopting this definition this sub-clause would read in relation to

a suit brought in the name of the Union of India in respect of a cause of action accruing against the Government of a Part C State :

In the case of a State against the Central Government..... the Collector of the District

9. The learned District Judge held that the notice served under S. 80, C.P.C. was vague. I am unable to agree with this view. The notice was served by 11 persons out of whom only 6 brought the present suit in respect of plots in which they were interested.

In the notice it was mentioned that either civil proceedings will be taken or criminal ones as the notice purported to be both under S. 80, C.P.C. and under S. 52, L.A. Act. But it was made sufficiently clear that the persons serving the notice demanded that possession be returned to them and that compensation be paid for the act of trespass that had been committed.

The State had sufficient notice of the subject matter of the present suit and the relief claimed by the plaintiffs as well as the grounds on which the reliefs were based. The notice is therefore not bad on the ground of being vague. I hold it to be valid notice.

10. I accordingly allow the appeal with costs set aside the decree of the court below and remand the suit for decision on merits in accordance with law.