courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.

Website: www.courtkutchehry.com

Printed For:

Date: 19/10/2025

Ram Nath Jadar Vs The State

None

Court: Calcutta High Court

Date of Decision: Dec. 20, 1977

Acts Referred:
West Bengal Cattle Licensing Act, 1959 â€" Section 12, 2, 3, 4, 9

Citation: (1978) CriLJ 439

Hon'ble Judges: Jyotirmoyee Nag, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

Jyotirmoyee Nag, J.
This Rule is directed against an order dated 9.8.76 passed by the learned Metropolitan Magistrate, 6th Court,

Calcutta, convicting the accused u/s 12(3)(b) of the West Bengal Cattle Licensing Act, 1959. The learned Magistrate sentenced him to pay a fine

of Rs. 400/- in default to suffer simple imprisonment for two months, He also forfeited the four buffaloes that were seized u/s 12(3)(b) of the Act.

2. The learned Advocate appearing for the petitioner submits that the conviction and sentence are bad although the accused pleaded guilty as the

plea of the accused was not recorded. I find from the order sheet of the learned Magistrate that the plea was actually recorded in Bengali although

in the certified copy of the order the same has been omitted which has misled the learned Advocate to make such submission. The second point

taken by the learned Advocate for the petitioner is that in order to convict the accused u/s 12 for violation of Section 9 of the Act it is necessary to

establish under Sub-clause (2) of Section 9 that he was carrying on business without a licence. The learned Advocate for the petitioner has

referred me also to Section 2(i) of the Act wherein "urban area1 is defined. An area within Calcutta as defined in the Calcutta Municipal Act,

1951, or any part or parts of such area is an urban area. As the offence is alleged to have been committed in Jorabagan area it certainly comes

within the definition of urban area. He has referred me to Section 4 also where two classes of licenses have been specified : (a) a licence which is

granted to a householder and (b) a licence which is granted to a person in respect of cattle kept in any premises or place for any purpose save as

mentioned in Clause (a) of this section. Sub-section (2) provides that a licence granted to a householder will come within class (A) and licence

granted for any other purpose will come under class (B) licence. Section 9(2) provides that no 440 Remembrancer, Legal Affairs, W. B. v. Kedar

Nath (A. K. Sen J.) Cri.L.J, class (B) licence shall be issued in respect of any premises or iplace within a prohibited area and if such licence is

already issued or in force in respect of any premises or place in such area shall stand cancelled on the expiry of six months from the date of the

issue of the notifi-cation under Sub-section (1) or of the remaining period of the licence whichever is earlier. Admittedly Jorabagan comes within

the prohibited area. Accordingly no licence would be issued for maintaining cattle for business purpose in such an area. There is however no bar to

issue of "A" class licence in such an area.

3. Therefore if any person keeps cattle for a purpose other than business in a prohibited area he has to obtain an "A" class licence or else he will

be punishable u/s 12(1)(vi) of the Act and it is specifically provided u/s 12(3)(b) that forfeiture is mandatory and in such a case the Magistrate has

no discretion in the matter.

4. Therefore there is no substance in the submission of the learned Advocate that the instant case falls u/s 12(l)(i) for violation of the provisions of

Section 3 of the Act and not Section 9(2) of the same Act. Section 3 relates to cattle kept in an "urban area" only, but for keeping cattle in a

prohibited area which is also an urban area, witHout a licence the offence falls tinder Section 12(1)(vi) of the Act.

5. The learned Magistrate was therefore right in forfeiting the cattle as he did.

6. The Rule is accordingly discharged.