

Maharajkumar-Gajbir Singh, etc. *v.* His Highness Maharaja Satbir Singh, etc. (Narula, J.)
 Singh and others. Though reference to the civil suit of Bhup Singh and the previous writ petition filed by the owner of the land to the South of the Jaunti Minor has been made in the petition, none of them has been impleaded in this case. It is impossible to give a direction in the writ petition which may directly affect prejudicially the persons who are not impleaded as respondents. So far as the syphon at R.D. 64000 in Pai distributory is concerned it was admittedly installed in 1958 and a petition for removing the same filed in 1966 cannot be entertained on account of laches. In these circumstances, it does not appear to be possible to grant any relief to the petitioners.

In spite of the fact that I feel compelled to dismiss this writ petition on legal grounds, it does appear that the justice of the cause may be on the side of the petitioners and that the Government must take adequate necessary steps as expeditiously as possible to perform the duty enjoined on them under section 57 of the Act by considering any fresh representation which the petitioners might now make in this behalf. I have no doubt that if the petitioners approach the State Government in a proper way, it would look into the matter and if it considers it necessary to make the requisite provision for some drainage-works, it would then proceed to act under section 57 of the Act to redress the long-standing grievance of the petitioners.

Subject to the above observations this writ petition is dismissed without any order as to costs.

K.S.K.

CIVIL MISCELLANEOUS

Before R. S. Narula, J.

MAHARAJKUMAR GAJBIR SINGH AND ANOTHER,—*Petitioners*

versus

HIS HIGHNESS MAHARAJA SATBIR SINGH AND OTHERS,—*Respondents*

Civil Misc No 23-M of 1967.

May 16, 1967

Code of Criminal Procedure (Act V of 1898)—S. 146—Civil Court of competent jurisdiction—Meaning of—Code of Civil Procedure (Act V of 1908)—S. 24 and Constitution of India (1950)—Article 227—Proceedings under S. 146 Cr. P. Code—Whether can be transferred from one civil court to another.

Held, that section 146 of the Code of Criminal Procedure envisages a reference being made to a civil Court of competent jurisdiction. "Competent jurisdiction" in that provision refers to the competency as to the territorial jurisdiction as well as pecuniary jurisdiction.

Held, that even if section 24 of the Code of Civil Procedure cannot be invoked for transfer of the proceedings under section 146 of the Code of Criminal Procedure, the High Court has jurisdiction to transfer the case from one civil court to another in the exercise of its powers of superintendence under Article 227 of the Constitution of India.

Petition under sections 24, 141 and 151 of the Code of Civil Procedure, 1908 and Article 227 of the Constitution of India, praying that the case be withdrawn from the Court of Shri Prem Sagar, Sub-Judge III, Class, Sangrur, and be transferred to the Court of the Senior Sub-Judge or any other Sub-Judge First Class, Sangrur.

BAL RAJ TULL, SENIOR ADVOCATE WITH S. S. MAHAJAN, ADVOCATE, for the Petitioners.

K. S. NEHRA, ADVOCATE, for the Respondents.

ORDER

NARULA, J.—A reference was made by the Sub-Divisional Magistrate, Sangrur, to the Court of Senior Subordinate Judge, Sangrur, for a report under section 146, Criminal Procedure Code, with regard to a dispute as to possession of agricultural land known as Rajbir Farms about which litigation was going on between the parties. It is not disputed that the property involved in this reference is comprised of 2,467 Kanals, 12 Marlas of agricultural land situated in Sangrur town, the market value of which is in the neighbourhood of Rs. 15,00,000. The yearly rent of the property auctioned by the Tehsildar was Rs. 70,000 in the year 1966-67. The amount already with the Tehsildar who is the receiver of the property, is more than Rs. 1,00,000. A report which will be made by the Civil Court, in the reference is likely to affect the rights of the parties at least to some extent in relation to some of the properties. The S.D.M. is going to be bound by the report of the Civil Court. Even if thirty times the land revenue is calculated for determination of pecuniary jurisdiction of a Court, it comes to Rs. 11,811 in this case. There is no dispute that if it were a civil suit, the Court of Shri Prem Sagar Sharma, Subordinate Judge, 3rd Class, before whom the reference is pending, would have no jurisdiction to try it. The petitioners' application for transfer of the case from the said court to the Court of

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Subordinate Judge, 1st Class has been dismissed by Shri Pritam Singh Pattar, District Judge, Sangrur, on two grounds, viz;—

- (1) That no application under section 24, Civil Procedure Code, lies in connection with the proposed transfer of proceedings under section 146, Criminal Procedure Code; and
- (2) that the question of pecuniary jurisdiction is not relevant for purposes of such proceedings.

Prima facie it appears to me that the finding of the learned District Judge on the second point is not quite correct. Section 146, Criminal Procedure Code, envisages a reference being made to a civil Court of competent jurisdiction. 'Competent jurisdiction' in that provision refers, in my opinion, to the competency as to the territorial jurisdiction as well as pecuniary jurisdiction. In any case the litigation in question should in the interests of justice be dealt with only by a Subordinate Judge, 1st Class. Assuming that section 24 of the Code of Civil Procedure cannot be invoked for transfer of such proceedings, this Court has ample jurisdiction to transfer the case in exercise of its powers of superintendence under Article 227 of the Constitution.

After considering all the circumstances of the case I direct that the reference pending in the Court of Shri Prem Sagar Sharma, Subordinate Judge, 3rd Class, shall stand transferred to the Court of the Senior Subordinate Judge, Sangrur. The learned counsel for the respondent apprehends further delay being caused in the disposal of the reference. To obviate such a possibility, I direct that the parties shall appear before the transferee Court on June 1, 1967, when the learned Senior Subordinate Judge will fix a date for evidence of the parties and then proceed to dispose of the reference expeditiously. If possible, proceedings should be completed and the report sent by him to the Criminal Court within three months from June 1, 1967.

R. N. M.