

## APPELLATE CIVIL

Before Mr. Justice F. M. Nanavutty and Mr. Justice  
G. H. Thomas

ALI RAZA KHAN (PLAINTIFF-APPELLANT) *v.* ABDUL RAUF  
KHAN, AND ANOTHER (DEFENDANTS-RESPONDENTS)\*

1934  
November,  
20.

*Motor Vehicles Rules (Act VIII of 1914), rules 18 and 79—Breach committed under rule 18—Suspension of licence—Registering authority, meaning of—Power to suspend motor vehicle, whether possessed by registering authority of district in which offence is committed or only by the registering authority which actually granted the licence—Registering authority, whether has power to suspend licence.*

The Superintendent of Police of any district within which an offence is committed can suspend the registration of a motor vehicle in case of any breach mentioned in rule 18 of the Motor Vehicles Rules (Act VIII of 1914) and not only the Superintendent of Police of the district where the vehicle was actually registered and the licence was granted.

Where major power is given, the minor power is included, and if the registering authority has power to rescind, it certainly has power to suspend also.

Messrs. *Hakimuddin Siddiqi and Harish Chandra*, for the appellant.

The Assistant Government Advocate (Mr. *H. K. Ghose*), for the respondents.

NANAVUTTY and THOMAS, JJ.:—This is a plaintiff's appeal against the judgment and decree of the learned Subordinate Judge of Sitapur, dated the 31st of January, 1933, confirming the decree of the learned Munsif of Sitapur, dated the 30th of April, 1932, dismissing the plaintiff's suit.

The plaintiff, at the time of the institution of the suit, was the proprietor of a motor lorry No. U. P. 3345 L. W.

Defendant No. 1, M. Abdul Rauf Khan, at the time of the institution of the suit, was the Kotwal of Sitapur

\*Second Civil Appeal No. 138 of 1933, against the decree of Pandit Parduman Krishna Kaul, Subordinate Judge of Sitapur, dated the 31st of January, 1933, confirming the decree of Babu Avadh Behari Lal, Munsif of Sitapur, dated the 30th of April, 1932.

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and defendant No. 2, Rai Bahadur Babu Durga Prasad, was the Deputy Superintendent of Police.

The Plaintiff brought the suit to recover a sum of Rs.600 as damages from the defendants under the following circumstances:

The plaintiff's lorry used to ply for hire between Lucknow and Sitapur. The proprietor of the Oudh Seed Stores, Lucknow, had a lorry which also used to ply for hire between Lucknow and Sitapur—its driver was one Hikmatullah. From the evidence it appears that there was great competition for taking passengers between the two lorry drivers and that there was some trouble between them on the 22nd of June, 1930.

Hikmatullah, on the said date, made a report at Sitapur Kotwali that on the 22nd of June, 1930, there was a dispute between him and one Anwar Husain, the person in charge of the appellant's lorry, near the Lucknow City Station; that Anwar Husain beat him (i.e. Hikmatullah) and his cleaner Ram Deo; that they fearing further beating drove off in their lorry to Sitapur; and that Anwar Husain hired some *badmashes* and chased them in his lorry.

Defendant-respondent No. 1, M. Abdul Rauf Khan, brought these facts at once to the notice of the second respondent, Rai Bahadur Babu Durga Prasad, Deputy Superintendent of Police, Sitapur, who was, owing to the absence of the Superintendent of Police from the station holding charge for the day. The respondent No. 2, on this information, was of opinion that there were grounds to take action under the Motor Vehicles Rules, and to prevent further breach of the peace which was apprehended, ordered respondent No. 1 to suspend the plaintiff's lorry. He further ordered that the registration card, the permit and the licence be taken away from the driver, and that the owner of the lorry and the driver be asked to appear before him the same day. The respondent No. 1, in compliance with this order,

took possession of the above-mentioned documents and directed the driver to appear before the respondent No. 2 the same evening; but it appears that no one on behalf of the plaintiff appeared before the respondent No. 2. The next day the respondent No. 2 issued notice to the driver and the owner to show cause why their licence and permit should not be cancelled, and he fixed the 26th of June for hearing, but no one appeared to show cause. The respondent No. 2 then sent all the papers to the Superintendent of Police of Lucknow, as the lorry was registered at Lucknow.

Proceedings were also taken against certain persons belonging to the plaintiff's side under section 143 of the Indian Penal Code.

The case for the plaintiff is that the respondent No. 1 maliciously and without any valid reason suspended the lorry and withheld the permit, the registration card and the certificate, and that owing to this action of the respondent No. 1 the plaintiff had suffered a great loss which was mentioned as Rs.3,000 in the notice sent under section 80 of the Code of Civil Procedure; but owing to the status of the respondent No. 1 the amount was reduced to Rs.600 only. He further alleged that the lorry was suspended for a period of nearly two months; that the Deputy Superintendent of Police had no right to suspend the lorry and that he was not the registering authority under the Motor Vehicles Rules.

It may be mentioned that at first the defendant No. 1 alone was impleaded as a defendant.

The defendant No. 1, in his defence, stated that he removed the permit and the registration card under the orders of his superior officer, that is defendant No. 2, who was the registering authority of Sitapur under the Motor Vehicles Rules; that the suspension of the lorry was only for four days and that he was not liable for any damages.

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On this defence, the plaintiff then impleaded the Deputy Superintendent of Police who had passed the order, as a defendant.

The defence of defendant No. 2 was that when he received the information from the defendant No. 1 that there was a danger of further breach of the peace, he ordered the defendant No. 1 to take the permit and the registration card and ordered the plaintiff and the driver to appear before him the next day to show cause against the order of suspension; that no one appeared and the case was postponed to the 26th of June; that no one appeared on the 26th of June either and, therefore, for the convenience of the plaintiff he sent all the papers to the Superintendent of Police of Lucknow, for disposal as the lorry was registered at Lucknow; that the defendant No. 2 acted *bona fide* in the discharge of his duties and was not liable to pay any damages; that the lorry remained all along in the possession of the plaintiff and he was told to appear before him the next day and apply for the return of the papers, but as he failed to do so the responsibility was his and if he has suffered any loss it was due to his own wilful negligence and that whatever action was taken by him was within his powers as the registering authority.

Both the lower Courts have found that no malice is proved against either of the defendants and that the suspension of the lorry was only for four days. These are findings of fact based on good evidence and we are not entitled to disturb them in second appeal. The appellate court further found that the respondent No. 2 had authority to suspend the registration of the appellant's lorry under rule 18 of Act VIII of 1914 (Motor Vehicles Rules).

The plaintiff, dissatisfied with the above findings, has come up to this Court and his learned counsel has urged that the order of the respondent No. 2 is illegal

and under the law both the defendants are liable for damages.

His argument is that respondent No. 2 was not the registering authority as contemplated under rule 18 of the Motor Vehicles Rules. His contention is that "the registering authority" means the person who actually gave the licence and in this case it would be the Superintendent of Police of Lucknow, who alone could take action under the Motor Vehicle Rules.

Under section 3(o) of the Motor Vehicles Rules "registering authority" means the Superintendent of Police, or an Assistant or Deputy Superintendent or Inspector of Police authorized by the Superintendent of Police to perform the duties of the registering authority under these rules."

We find from the judgment of the lower appellate court that it was not contested "that the second respondent is a person who has been authorized to perform the duties of the registering authority under these rules". We agree with the finding of the learned Subordinate Judge that the respondent No. 2 was the registering authority. We are unable to agree with the contention of the learned Counsel that the Superintendent of Police of Lucknow was alone the registering authority. Emphasis is laid on the word "*The*" registering authority. In our opinion the article "*the*" is used in its grammatical sense and is grammatically correct and does not refer to the authority which issued the licence. We are further of opinion that the Superintendent of Police of any district within which an offence is committed could suspend the registration in case of any breach mentioned in rule 18.

In our opinion there is no force in this argument and we accordingly reject it.

It is next contended that under rule 18 the owner was not given an opportunity of making any representation which he may have wished to make. It is clear from

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the evidence of respondent No. 2 that on the 22nd of June, 1930, when he gave the Kotwal the oral order to suspend the appellant's lorry he directed him to ask the driver and the owner to appear before him (i.e. respondent No. 2) and the Kotwal has stated on oath that he did inform the driver of that order on the 22nd June and that when he went to Lucknow on the 25th of June to make certain enquiries in connexion with the riot case, he met the appellant and informed him that he was required to appear before the Superintendent of Police on the 26th June. The appellate court has believed the evidence of the respondents on this point and we agree with the finding of the lower appellate court that the appellant had full opportunity to make any representation he wished to make. We are of opinion that the finding of the lower appellate court, that the action of respondent No. 2 under rule 18 of the Rules was perfectly justified, is correct.

With regard to rule 79 of the Motor Vehicles Rules it is contended by the learned counsel that this rule does not give the registering authority power to suspend the permit, and reliance is placed on the words that "a permit shall be valid up to December 31, following the date of its issue, but may be rescinded by the registering authority for sufficient reasons at any time during the period of its validity."

It is urged that the registering authority could only rescind the permit. We are of opinion that where major power is given, the minor power is included, and that if the registering authority has power to rescind, it certainly has power to suspend also. We are, therefore, of opinion that the action of respondent No. 2 taken under rules 18 and 79 of the Motor Vehicles Rules was fully justified and that there was no illegality.

In view of the above finding it is not necessary for us to decide the question whether the respondents can at

all be held responsible for their *bona fide* actions which they took in discharge of their public duties.

The learned counsel for the appellant cited before us some cases in support of his contention that even if the action of the respondents was not *mala fide* they were still liable for damages. In view of the above finding it is not necessary for us to decide this point.

We accordingly uphold the decree of the lower appellate court and dismiss the appeal with costs.

*Appeal dismissed.*

### FULL BENCH

*Before Mr. Justice E. M. Nanavutty, Mr. Justice G. H. Thomas and Mr. Justice Ziaul Hasan*

SAIYED ABUZAR (PLAINTIFF-APPELLANT) *v.* BABU SHASH-DHAR SINGH (DEFENDANT-RESPONDENT)\*

1934  
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*United Provinces Land Revenue Act (III of 1901), section 139—Union of mahals, effect of—Change in ownership, whether affected by union of mahals—Sale of land in one mahal after its amalgamation with another mahal, validity of.*

The sale of the land included in the original mahal is not rendered invalid by reason of the order of the Settlement Court amalgamating the said mahal with another mahal. By the union of two or more mahals, no change in the rights of ownership of the proprietor or proprietors of the original mahals takes place. *King-Emperor v. Tika Ram* (1), *Haridas Majumdar v. Golam Mahiuddin Faruqi* (2), and *Mohammad Ahmad v. Prag Narain* (3), distinguished. *Asghar Husain v. Sardar Husain* (4), referred to.

Messrs. *Zahur Ahmad* and *Ali Mohammad*, for the appellant.

Messrs. *Radha Krishna* and *P. N. Chaudhri*, for the respondent.

\*First Civil Appeal No. 24 of 1933, against the decree of Babu Bhagwati Prasad, Subordinate Judge of Partabgarh, dated the 30th of November, 1932.

(1) (1928) 26 A.L.J.R., 1201.

(2) (1927) A.I.R., Cal., 256.

(3) (1911) 14 O.C., 115.

(4) (1928) 5 O.W.N., 947.