

Bakhshi Ram the house continued to stay on in the premises, it
alias Bakhsha seems to me that he occupied the premises not in his
 v. capacity as owner but in his capacity as a tenant of
 Buta Singh the person with whom the property was mortgaged.
 Bhandari, C. J. When a mortgagee in possession allows the mortgagor
 to remain in occupation of the mortgaged properties
 as a tenant and the mortgagor duly executes and re-
 gisters the lease, the relation of landlord and tenant
 comes into existence between the parties and the
 mortgagor cannot be allowed to turn round and plead
 that the deed executed by him should not be interpret-
 ed as a lease, *Asa Ram v. Kishan Chand* (1).

For these reasons I am of the opinion that the
 Courts below have come to a correct determination
 in point of law and the only order that can be passed
 on this petition is that it must be dismissed with costs.
 I would order accordingly.

REVISIONAL CRIMINAL

Before Bhandari, C.J. and Khosla, J.

GURDIAL SINGH,—Petitioner

versus

THE STATE,—Respondent

Criminal Revision No. 1029 of 1954.

Punjab Gram Panchayat Act (IV of 1953)—Whether
ultra vires the Constitution of India.

1956

Sept., 17th

Held, that the Punjab Gram Panchayat Act of 1953 is
 not *ultra vires* the Constitution of India.

(Case referred to Division Bench for decision by Hon'ble
 Mr. Justice Kapur, on the 11th March, 1955.)

Petition under section 439 of Criminal Procedure Code
 for revision of the order of Shri Raghbir Singh, District
 Magistrate, Ludhiana, dated the 29th May, 1954, affirming
 that of the Gram Panchayat Nasrali, dated the 22nd Janu-
 ary, 1954, convicting the petitioner.

K. S. THAPAR and H. L. SARIN, for Petitioner.

S. M. SIKRI, Advocate-General for Respondent.

(1) A.I.R. 1930 Lah. 386.

ORDER

As this case raises the question of the constitutionality of the Panchayat Act, I refer the case to a Division Bench and send it to the Hon'ble the Chief Justice for constituting a Division Bench.

Gurdial Singh
v.
The State

Kapur, J.

JUDGMENT

BHANDARI, C.J.—By this petition under section 439 of the Code of Criminal Procedure, the petitioner challenges the validity of the East Punjab Gram Panchayat Act, 1953. Bhandari, C. J.

One Gurdial Singh was convicted by a Panchayat under section 426 of the Penal Code and sentenced to pay a fine of Rs. 40 only. The convict is dissatisfied with the order and has come to this Court in revision.

The validity of the Gram Panchayat Act has been challenged on three grounds. It is stated in the first place that the accused petitioner was not allowed to be defended by a counsel of his own choice. This objection has been answered by their Lordships of the Supreme Court in *State of Punjab v. Ajaib Singh and another* (1), in which it was held that the language of Article 22(1) and (2) indicates that the fundamental right conferred by it gives protection against such arrests as are affected otherwise than under a warrant issued by a Court on the allegation or accusation that the arrested person has, or is suspected to have, committed, or is about or likely to commit an act of a criminal or quasi-criminal nature or some activity prejudicial to the public or the State interest. In other words, there is indication in the language of Article 22 that it was designed to

(1) A.I.R. 1953 S.C. 10.

Gurdial Singh give protection against the act of the executive or
 v. other non-judicial authority.
 The State

—————
 Bhandari, C. J.

The second objection is that although the Constitution has enacted specific provisions in regard to the appointment of subordinate judiciary, the Act of 1953 has sanctioned the appointment of an elective judiciary and has thereby contravened the provisions of the Constitution. This objection too appears to me to be wholly devoid of force. It is true that the method of the recruitment of judicial officers like Judges of the Supreme Court, Judges of High Courts and District and Subordinate Judges has been set out in the appropriate Articles of the Constitution but items 3 and 5 of List II State Legislative List confers ample power on the State Legislature to provide for administration of justice, constitution and organisation of Courts and the constitution of local authorities for purposes of local self-government or village administration. The mere fact, therefore, that the Act of 1953, does not lay down any criteria for determining the qualifications of Panches who are later to exercise judicial functions would not in my opinion contravene the provisions of the Constitution.

The third objection is that by setting up these Panchayats the State Legislature has deliberately violated the provisions of Article 50 of the Constitution which declared that the State shall take steps to separate the judiciary from the executive in the public services of the State. It is contended that the State Legislature has not complied with the directive principle embodied in this Article and has, on the other hand, endeavoured to merge judicial and executive functions by the constitution of Panchayats. This objection too appears to me to be untenable as Article 50 must be deemed to be a directory and not a mandatory provision.

For these reason I am of the opinion that there is no substance in the objections which have been taken. I can see no reason for declaring the Act of 1953, to be *ultra vires* of the Constitution. This petition and similar other petitions must, in my opinion, be sent back to the learned Single Judge for disposal in accordance with law.

Gurdial Singh
v.
The State
Bhandari, C. J.

Khosla, J. I agree.

Khosla, J.

APPELLATE CIVIL

Before Falshaw, J.

LAL SINGH,—Appellant

versus

PUNJAB SINGH AND OTHERS,—Respondents

Regular Second Appeal No. 186 of 1951, with Cross-objections.

1956

Indian Soldiers (Litigation) Act (IV of 1925)—Section 11—Expression “any party to which is and has been an Indian Soldier”—Whether entitles a plaintiff who had never served in the army to get benefit of the extended period of limitation under section 11 by impleading an ex-soldier as pro forma defendant—Res judicata—Compromise decree between an adopted son under the customary law and some of the reversioners of the adopter—Whether such decree operates as res judicata in a subsequent litigation between the adopted son and the same or other reversioners of the last male holder.

Sept., 19th

Held, that although section 11 is capable of bearing the interpretation that by impleading an ex-soldier as a *pro forma* defendant the plaintiff is entitled to the benefit of the extended period of limitation thereunder but in view of the objects of the statute as a whole such an interpretation cannot be said to have been intended. The Legislature has every right to have statutes construed in a reasonable manner and it is clear that the object of this statute is to give anyone who has served in the Army on the war time conditions, the benefit of this period of service in any litigation