

Basdeo Vs. Ulfat Rai and ors.

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Court : Allahabad

Decided On : Aug-01-1914

Reported in : (1915)ILR37All22

Judge : Henry Richards, C.J. and ;Pramada Charan Banerji, J.

Appellant : Basdeo

Respondent : Ulfat Rai and ors.

Judgement :

Henry Richards, C.J. and Banerji, J.

1. We are not prepared to endorse as a matter of law that the defendants became under the circumstances exproprietary tenants by reason of being in possession of the property. We are inclined to think that the defendants acquired an absolute title to the property. They have admittedly been in possession ever since the year 1891 and such possession has been without any title. This prima facie would give the defendants an absolute title by adverse possession and it would be upon the persons who were entitled to possession to explain and show that the possession of the defendants was not adverse. The learned Judge of this Court says : 'My own opinion is that the appellant in the present case must be held to have acquired the status of an exproprietary tenant by adverse possession for twelve years and more.' We do not think that a person can acquire the 'status' of an exproprietary tenant by adverse possession. True it is that a lease-hold or an

exproprietary interest can be acquired by adverse possession as against the person who is the lessee or the exproprietary tenant. But we do not think that where there never has been a lessee or exproprietary tenant that it is possible to become such by adverse possession. The respondents have filed no objection to the decision and have not claimed to be proprietors, and therefore we cannot interfere with the decree of this Court. The result is that the appeal fails and is dismissed with costs.

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