

Rameshar Singh Vs. Madho Lal

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SooperKanoon Citation : sooperkanoon.com/448170

Court : Allahabad

Decided On : Jul-10-1919

Reported in : (1920)ILR42All36

Judge : Stuart and ;Ryves, JJ.

Appellant : Rameshar Singh

Respondent : Madho Lal

Judgement :

Stuart and Ryves, JJ.

1. The present respondent gave some land to Swami Bishudha Nand, it is said, some fifty-six years ago, to plant a grove. In 1899, the Swami died. Subsequently the Maharaja of Darbhanga was admitted as a tenant and paid the respondent Rs. 14 a year as rent. It appears that ho was recorded in the revenue papers as a non-occupancy tenant. Be that as it may, he continued to pay the rent up till the year 1910, when the respondent brought a suit to eject him under Section 58 of the Tenancy Act. In his reply to that suit the Maharaja of Darbhanga made two somewhat contradictory statements. In paragraph 2 of his written statement he stated that the holding was a grove, pure and simple, and that he was merely managing it as a sort of shebait. In the 3rd paragraph he went on to say that, inasmuch as he. had been in charge and management of the property for over twelve years, he had acquired a right of occupancy. Both the Assistant Collector

and the Commissioner dismissed the suit, holding that the defendant had proved himself to be an occupancy tenant. On revision to the Board of Revenue it was held that occupancy rights could only be acquired in 'land' and that the grove in question was not 'land' within the meaning of the Act. It held, however, that a decree for ejectment of the defendant could be given on the ground that after the death of the Swami, the Maharaja of Darbhanga came in, not as the heir of the Swami, and therefore not under the same contract as would bind the defendant and the Swami, but that he simply came in as a tenant paying Rs. 14, year by year. The result was that the Maharaja of Darbhanga was ejected from the land. He then brought this suit for a declaration, for possession of the grove, and mesne profits, on the grounds that the defendant had no right to eject him and that the ruling of the Board of Revenue was illegal, being one which the Revenue Courts had no jurisdiction to pass. There can be no doubt that such a grove-holder as the appellant is a tenant according to the definition in Section 4 of the Act. Next it remains to be seen whether he is a non-occupancy tenant. Section 19, in which the word 'land' does not find a place, makes it quite clear, that the appellant is a non occupancy tenant. Therefore the Revenue Court had power to eject him. Section 58 lays down the conditions under which a non-occupancy tenant may be ejected, and there is nothing in that section which seems to exclude such a grove-holder. It is argued that Section 58 implies a suit for ejectment from land, the word 'land' as defined in Section 4(2) of the Act being land used for agricultural purposes. But there is no force in this argument. The section lays down how such a tenant is to be ejected from his tenancy. That tenancy need not necessarily be over land used for agricultural purposes. It seems to us, therefore, that the decision of the Board of Revenue was not only one which it had jurisdiction to pass, but which was right. In this view it is unnecessary to consider the various rulings of this Court and also of the Board of Revenue which have been cited to us, as our finding on this point concludes the appeal. The result is that the appeal fails and is dismissed with costs.