

The Maharaja of Benares Vs. Angan

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1885)ILR7All112

Judge : Oldfield and; Duthoit, JJ.

Appellant : The Maharaja of Benares

Respondent : Angan

Judgement :

Oldfield, J.

1. The only question raised in appeal is whether the suit is cognizable by the Civil Court, and we are clearly of opinion that the Courts, below have rightly held that it is not.
2. The plaintiff admits that the defendant is his tenant, but asserts that he is a tenant-at-will, and he seeks to have it declared that the defendant is neither a tenant at fixed rates nor a tenant with rights of occupancy, but a tenant-at-will, and he further seeks to eject him.
3. The pleader for the appellant is unable to support the plea that a suit on the part of the plaintiff to eject the defendant will lie in the Civil Court. Such a suit is clearly barred by the provisions of Section 95 of the Rent Act, the remedy being by

application to eject under Section 35, or to have notice of ejectment served under Section 38. Suits for ejectment have only been allowed in a Civil Court in cases in which the plaintiff has denied that the relation of landlord and tenant has existed, and in which the Court has been asked to decide the question of title between the parties; and in such cases, when the defendant was found to be the tenant of the plaintiff, the latter has been left to seek his remedy for ejectment in the Revenue Court.

4. But it has been contended that the Civil Court may determine the nature and class of a tenant's tenure in a suit brought by the landlord, notwithstanding anything contained in Section 95 of the Rent Act, and the ground for this contention is that, although a tenant can make an application in a Revenue Court for determination of the nature and class of his tenure, there is no provision enabling a landlord to do so, and he would therefore be without remedy.

5. To this, however, it might be replied that where there is a dispute as to the nature and class of a tenants' tenure, the landlord can always bring the question to trial in a Revenue Court, by enforcing against the tenant his asserted rights as landlord.

6. But, however this may be, the terms of Section 95(a) are clear, and do not allow of the Civil Court's jurisdiction in such matters. Revenue Courts alone have cognizance of any dispute or matter in which an application to determine the nature and class of a tenant's tenure under Section 10 might be made. The dispute or matter here is as to the nature and class of the defendant's tenure as a tenant, and is one on which the latter might make an application under Section 10. It does not affect the question that the plaintiff as landlord may not be able to make an application under Section 10, for the dispute or matter is none the less one contemplated by Section 95, which deals with the character of the dispute between the parties suing, and has for its object to leave to the Revenue Courts the determination of all disputes between landlord and tenant as to the nature and class of the tenant's tenure.

7. Were it otherwise, we should have applications made by a tenant in the Revenue Court under Section 10 and decided by that Court, and the same

questions re-opened on the part of the landlord in the Civil Court. In the present case, indeed, we find that the plaintiff's lessee put into force against the defendant, in the Revenue Court, the provisions of Section 36 of the Rent Act, but without success, and that the defendant has obtained a decision from the Revenue Court in respect of the nature and class of his tenure.

8. The appeal is dismissed with costs.

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