

Mendya Vs. Jhurya

Mendya Vs. Jhurya

SooperKanoon Citation : sooperkanoon.com/456357

Court : Allahabad

Decided On : May-28-1920

Reported in : (1920)ILR42All668

Judge : Tudball and ;Sulaiman, JJ.

Appellant : Mendya

Respondent : Jhurya

Judgement :

Tudball and Sulaiman, JJ.

1. The facts of this case may be briefly put. When the present Tenancy Act came into force two persons Ram Ghulam and his uncle, Jhurya, who constituted a joint Hindu family, held an occupancy tenancy as a joint Hindu family. One member of that joint family has died and it is claimed by his widow that she is entitled to inherit his interests under Section 22 of the Tenancy Act. A learned Judge of this Court who heard the appeal held, in view of the ruling' in Mahabir Singh v. Bhagwanti (1916) I.L.R. 38 All. 325, that the tenant, i.e., the joint family, not having died, Musammat Mendya, the widow of Earn Ghulam, acquired no interest in the tenure. We are not prepared to dissent from the ruling quoted. We can see nothing in the Act to prevent a joint Hindu family as such acquiring an occupancy tenure. Section 22 lays down the devolution of the interest of an occupancy tenant when the tenant dies. If one member of a joint Hindu family which has acquired an

occupancy tenure dies, the occupancy tenant does not die and therefore Section 22 does not operate. The Act has nowhere contemplated the circumstances of the present case. There was nothing in law before this Act was passed to prevent a joint Hindu family from acquiring occupancy rights. There is nothing in the present Act to prevent that acquisition now, Section 22 is the only section to govern the case of devolution, and that lays down that when a tenant dies the property devolves in a certain manner. So long as the joint family exists, the tenant in that case does not die and therefore Section 22 does not operate. As the joint family in the present case owned the tenure, the family still remains the tenant in spite of the death of Ram Ghulam. We, therefore, dismiss the appeal with costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com