

Narain Singh Vs. Gobind Ram

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Court : Allahabad

Decided On : Mar-10-1911

Reported in : 9Ind.Cas.1022

Judge : Karamat Husain, J.

Appellant : Narain Singh

Respondent : Gobind Ram

Judgement :

Karamat Husain, J.

1. This appeal arises out of a dispute between two persons who are both of them subject to the provisions of Local Act No. II of 1901. The respondent, Gobind Ram, was plaintiff and claimed to be the sole tenant of a large occupancy-holding. He first went to the Revenue Court and filed an application in that Court for the ejectment of the appellant, Narain Singh, his nephew, alleging that Narain Singh was his sub-tenant of a part of a large holding. The application was dismissed. The Commissioner held that Narain Singh had made out his plea that he was an occupancy-tenant and not a sub-tenant. This decision was confirmed by the Board of Revenue. Whether it was necessary or not to go so far as the Revenue Courts went we need not consider. Gobind Ram then came to the Civil Court and filed the suit out of which the present appeal has arisen, to eject the defendant from that part of the occupancy-holding which is in his possession. He in the plaint alleged

that the land held by Narain Singh had been sub-let to him at a certain rent per annum but as the latter had in the Revenue Court pleaded that he was a partner and not, a subtenant he had by this very act become a trespasser and should on that ground be ejected. The Court below appears to have overlooked the provisions of Section 56 of Act No. II of 1901, which provides that no tenant shall be ejected otherwise than under the provisions of the Act. Gobind Ram, according to his own showing, treated Narain Singh as a tenant whom he wished to be ejected by the Revenue Court, but having failed there, he comes to the Civil Court to have him ejected. He cannot do so by coming to the Civil Court. We hold that the Civil Court has no jurisdiction in this case. We decree the appeal, set aside the order of the lower Appellate Court with costs and restore the decree of the Court of first instance.

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