

Narpat and ors. Vs. Chhidu

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1886)ILR8All62

Judge : W. Comer Petheram, C.J. and; Oldfield, J.

Appellant : Narpat and ors.

Respondent : Chhidu

Judgement :

Oldfield, J.

1. In this case it is admitted that the defendant has the rights of an occupancy cultivator in this land, and the plaintiff is a lessee from him. The suit is a suit to recover possession of the land under the lease from which the defendant has ejected the plaintiff. The only question before us is, whether the Civil Court has jurisdiction to entertain this suit. In my opinion the finding of the lower Court on this question is wrong. The suit is exclusively cognizable by the Revenue Courts. The lower Court is wrong in holding that when both the parties are cultivators the suit is cognizable by the Civil Courts, because there is no relation in that case of landholder and tenant as contemplated by the Bent Act. This is not so; the matter in suit is a matter on which an application of the nature mentioned in Section 95(n)--'application for recovery of the occupancy of any land of which a tenant has been wrongfully dispossessed'--might be made. The rulings cited by the learned

pleader for the respondent--Muhammad Zaki v. Hasrat Khan Weekly Notes 1882 p. 61 and Ribban v. Partab Singh I.L.R. 6 All. 81 are distinguishable. In those cases the suit was brought against the defendant as a trespasser for a declaration of right. The decree of the Court below is reversed, and the suit is dismissed with costs in all Courts.

Petheram, C.J.

2. I concur.

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