

Sukhrampuri Vs. Muhammad Ashfaq

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Court : Allahabad

Decided On : Apr-22-1927

Reported in : AIR1927All779a; 103Ind.Cas.424

Appellant : Sukhrampuri

Respondent : Muhammad Ashfaq

Judgement :

Lindsay, J.

1. In my opinion the judgment of the lower appellate Court in this case is correct. The suit was a suit for resumption of a muafi under Sections 150 and 154. Tenancy Act 2 of 1901 The first Court held that the lands had not been granted for the performance of any specific service and was also of opinion that the grant was a charitable grant and, therefore, not resumable. The suit was dismissed. In appeal the learned Judge came to a contrary conclusion and was of opinion that the grant in this case was a grant for specific service and was resumable by the zemindar when the service was no longer required.

2. There is no direct evidence of the terms on which the grant was made, but in the wajib-ul-arz of 1881, para. 11, it is stated that in the mahal in which this property is situated 33 bighas odd were in possession of Gayapuri Goshain Chela of Bhagwanpuri, for the purpose of performing worship. It is further stated that he could retain possession so long as he performed worship but in case of his failing

to perform the service the zemindar was entitled to resume and transfer the grant to another pujari. The learned District Judge was, in my opinion, right in treating this land as being held for the purpose of specific service. It is to be noted that Section 154(1)(b) indicates that the service may be either religious or secular. I can see no evidence upon which it could be held that the grant was a charitable grant and consequently outside the ambit of Section 154. The decision of the lower appellate Court is correct. I dismiss this appeal with costs including fees on the higher scale.

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