

Manna Vs. Rang Lal

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Court : Allahabad

Decided On : Apr-03-1917

Reported in : AIR1917All371(2); 39Ind.Cas.859

Judge : Henry Richards, C.J. and ;P.C. Banerji, J.

Appellant : Manna

Respondent : Rang Lal

Judgement :

1. This appeal arises out of a suit in which the plaintiff claimed a declaration that he was the owner of grove No. 111 of the former Settlement and No. 117 of the recent Settlement, over which he and his predecessors had been in adverse and proprietary possession without any interference on the part of the zemindars of the village and that the defendant had no right in the grove aforesaid. The plaintiff also claimed any other relief which might be necessary for doing him justice. It appears that the defendant had instituted a suit in the Revenue Court for the ejectment of the plaintiff, alleging him to be a tenant. In these revenue proceedings the plaintiff in the present suit alleged himself to be the proprietor or to have proprietor's rights of some kind. The Revenue Court, not wishing to decide the question of proprietary title itself, made an order under Section 199, Clause (a) of the Tenancy Act, requiring the defendant to institute within three months a suit in the Civil Court for the determination of such question of title. It was in consequence of this order that the present suit was instituted. The Court of first instance came to the

conclusion that the plaintiff was entitled not only to the trees (i.e., the grove) but also actually to the land upon which the trees were growing. The lower Appellate Court considered that the plaintiff had not succeeded in proving that he was the proprietor of the land, but came to the conclusion that he was entitled to the trees and made a decree in the following terms: 'The decree of the lower Court is modified and it is declared that the plaintiff is the owner of the trees in grove No. 111 as entered in the former Settlement and No. 117 as entered in the recent Settlement and that he is not the owner of the land.' In second appeal a learned Judge of this Court set aside the decrees of both the Courts below and dismissed the plaintiff's suit. The present appeal is taken against that decision under the Letters Patent.

2. The learned Judge of this Court seems to have thought that the present suit could not be regarded as an ordinary suit in the Civil Court and that the Civil Court could only act as a referee or arbitrator to decide the specific question of proprietary title to the land upon which the trees were growing, and regarded this question as having been referred' for determination to the Civil Court by the Revenue Court. The learned Judge himself, however, has pointed out at the very commencement of his judgment that the question had not been referred but that a suit has been brought. In our opinion notwithstanding that the suit was instituted in consequence of the order of the Revenue Court the plaintiff was entitled to come into the Civil Court and to ask a declaration in respect of any matter the consideration of which is not expressly excluded from the cognizance of the Civil Court by the provisions of some Act of the Legislature. This has always been the practice in the Civil Court and it is quite free from objection. The plaintiff was undoubtedly entitled to ask the Civil Court to declare his title to the land upon which the trees were growing. He was also entitled to ask the Court to declare his title to the trees growing on the land and the Civil Court was bound to grant him a declaration in respect of both or either of these matters if he established his right thereto. Among the questions involved the plaintiff's claim was not only the question of his title, as proprietor, to the land but also his title to the trees; if he failed to prove his title as proprietor to the land it was no reason why his title to the trees should not be declared if he proved it. The Civil Court has no concern with the effect which its decree may have upon the Revenue Court proceedings as

soon as that case is taken up after the determination of the civil suit. We allow the appeal, set aside the decree of the learned Judge of this Court and restore the decree of the lower Appellate Court with costs. The respondent must pay the costs of both hearings in this Court.

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