

Rup Narain Alias Rupai Pathak Vs. Partap Pathak

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Court : Allahabad

Decided On : Jul-20-1921

Reported in : 64Ind.Cas.491

Judge : Stuart, J.

Appellant : Rup Narain Alias Rupai Pathak

Respondent : Partap Pathak

Judgement :

Stuart, J.

1. The only two points taken in appeal are the two points taken in the Court below, that the appellants had been declared to be the tenants of the plots in question by the Revenue Court and that the appellants having filed a suit in the Revenue Court, the lower Courts should have awaited the decision of that Court even although the suit was filed more than three months after the order was given.

2. With-regard to the first point, there was no judicial decision that the defendants were tenants. There was a remark of the Assistant Record Officer under the provisions of Section 39, Local Act III of 1901, that they were tenants of 11 years' standing', but this was not an adjudication. It had no legal effect to establish that the appellants actually were tenants.

3. With regard to the second point I can only read Section 202, Local Act II of 1901, as showing that when a defendant as here, has been ordered in writing to institute within three months a suit in the Revenue Court for the determination of the question of tenancy and fails to institute such a suit within three months of the order, the Court must decide the question against him. Under the provisions of the section the Court has no authority to extend time, I, therefore, dismiss this appeal with costs which will include in this Court-fees on the higher scale.

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