

Sokhai Vs. Ram Pershad

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Court : Allahabad

Decided On : May-11-1910

Reported in : 7Ind.Cas.486

Judge : Chamier, J.

Appellant : Sokhai

Respondent : Ram Pershad

Judgement :

Chamier, J.

1. This appeal arises out of a suit for possession of two plots of land. The case of the plaintiff appellant was that he was an occupancy tenant of the plots and was in peaceable possession thereof up to the year 1907, when the defendant dispossessed him. The defendant's case is that he did not dispossess the plaintiff and that he has held the plots as tenant of the Raja of Manda for the last ten years. He pleaded also that the suit was not maintainable in the Civil Court. The first Court dismissed the suit on the ground that the plaintiff failed to show that he was an occupancy tenant or had been in occupation of the plots at any time within 12 years before the suit. The plaintiff appealed and the District Judge maintained the dismissal of the suit on the ground that the plaintiff had failed to show that the defendant was a trespasser. Having carefully considered the judgment of the learned Judge, I have come to the conclusion that what he intended to hold was

that the defendant had entered into possession of the plots in suit under a lease granted by a Raja of Manda. For he refers to a qabuliat which was produced by one of the witnesses. The learned Judge evidently thought that the case was like the case of Ram Lal v. Chuni Lal 2 A.L.J. 69 : 27 A. 372 in which Mr. Justice Aikman said: 'When a land-holder lets land in the occupation of a tenant to a third party and he acting under the land holder's authority takes possession of the land, then, in my opinion, the tenant must be deemed to have been ousted by the landholder, and his remedy is by a suit under Section 79 of Act II of 1901, the person claiming through the land-holder being joined as a defendant to the suit under the provisions of Section 81 of the Act.' I take it that the learned Judge was of opinion that if the plaintiff was ever in possession, he was dispossessed by the land-holder who thereafter let the land to the defendant and, therefore, the suit was not maintainable. Accepting what I consider to be the finding of the learned District Judge, I dismiss this appeal with costs including fees on the higher scale.

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