

Ram Mehar Vs. Dakhan

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Court : Delhi

Decided On : Feb-25-1972

Reported in : 9(1973)DLT44; 1973RLR279

Judge : B.C. Misra and; Daup K. Kapur, JJ.

Acts : [Delhi Land Reforms Act, 1954](#) - Sections 50

Appeal No. : Regular Second Appeal No. 11D of 1963

Appellant : Ram Mehar

Respondent : Dakhan

Advocate for Pet/Ap. : S.S.Dalal,; Y.Dayal and; M.Dayal, Advs

Judgement :

Dalip K. Kapur, J.

(1) This is a Regular Second Appeal arising from a suit brought by Ram Mehar against his sister Shrimati , Dakhan, to claim a declaration that the order dated 26th September, 1958 passed by the Revenue Officer, Mehrauli, sanctioning mutation No. 812 in the name of the plaintiff and the defendant in equal shares, was illegal and void and that the plaintiff alone was entitled to the whole land. As a consequential relief an injunction was sought to restrain the defendant from interfering with the plaintiff's possession of the land in dispute. It may be

mentioned that the land, consisting of 3/4th share in 166 Bighas, 19 bids was of agricultural land situated in village Ravta, was held by Kishan Sahai, the father of the plaintiff and defendant as a Bhumidar. After the death of Kishan Sahai the afore- mentioned mutation was made by the Revenue Officer with respect to the land in the joint names of his son and daughter in accordance with the provisions of the Hindu Succession Act. The exact date of Kishan Sahai's death is not clear from the record but it is submitted by the plaintiff that it was shortly after the coming into force of the Hindu Succession Act, 1956.

(2) The trial court found that the land in dispute was being cultivated by the plaintiff along with his father Shri Kishan Sahai, and after the latter's death he had continued to cultivate the same. The defendant had also contended that she had been in cultivating possession of the land along with the plaintiff. But this was not established by any evidence. Hence it was held by the court that the defendant was not in cultivating possession of the land. On a construction of the provisions of the [Delhi Land Reforms Act, 1954](#) and the provisions of Hindu Succession Act, 1956, the trial court held that the rule of inheritance governing the parties was that which was to be found in the Hindu Succession Act and, hence the mutation in the joint names of the plaintiff and the defendant was up-held and the suit was dismissed.

(3) The plaintiff appealed to the Additional District Judge who concurred with the reasoning of the Subordinate Judge and dismissed the appeal. The plaintiff then preferred a Second Appeal to this Court which was heard by me sitting alone. I found that there was a decision of the Punjab High Court reported as Gopi Chand and others v. Smt. Bhagwani Devi Air 1964 P&h; 2720 in which P.C. Pandit J. had held that the rule of succession to be found in the Hindu Succession Act was applicable also to Bhumidars under the [Delhi Land Reforms Act, 1954](#) and that the rule of succession in Section 50 of the latter Act was not applicable having been repealed by the Hindu Succession Act and particularly by Section 4 thereof. As I found that the matter was of some importance, I referred the case to a larger Bench vide my judgment dated 19th February, 1971.

(4) At the hearing of this appeal it was found that there was no representation on behalf of the respondent. As the matter was one of importance we appointed Mr. Yogeshwar Dayal, as *amices curiae* to assist us in determining the questions which have arisen in this appeal.

(5) The main question to be determined in this case is solely a question of law. Either the rule of succession in the Delhi Land Reforms Act or the rule of succession in the Hindu Succession Act governs the parties. If the Hindu Succession Act applies, then the plaintiff and the defendant have to succeed to their late father as co-heirs each entitled to an equal share. If the Delhi Land Reforms Act is to apply then the succession has to be according to the provisions of Section 50 of that Act. According to that Section an unmarried daughter succeeds to a Bhumidar only if there is no superior heir. On the other hand, a married daughter does not succeed at all. The defendant is a married daughter and, therefore, she does not have any right to succeed her father. The Delhi Land Reforms Act is an earlier Act and the question whether it has been expressly or impliedly overruled is to be determined by reference to Section 4 of the Hindu Succession Act, 1956. The said Section reads as hereunder:-

'4.(1) Save as otherwise expressly provided in this Act:- (a) any text, rule or interpretation of Hindu Law or any custom or usage as part of that law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act: (b) any other law in force immediately before the commencement of this Act shall cease to apply to Hindus in so far as it is inconsistent with any of the provisions contained in this Act. (2) For the removal of doubts it is hereby declared that nothing contained in this Act shall be deemed to affect the provisions of any law for the time being in force providing for the prevention of fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings.'

(6) The language of Section 4(1)(b) shows that any law in force immediately before the commencement of the Act shall cease to apply to Hindus if it is inconsistent with the provisions of the Act. The provisions of the Delhi Land

Reforms Act are inconsistent with the Hindu Succession Act as has already been stated before. Thus, if there was no sub-section (2) this question could have had to be decided against the plaintiff. However, sub-section (2) states that the Act will not affect the provisions of any law which is in force if it provides for the prevention of fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings. The question of succession, therefore, depends wholly on whether the Delhi Land Reforms Act is a law which prevents the fragmentation of agricultural holdings or fixes ceilings on agricultural holdings or provides for the devolution of tenancy rights in respect of such holdings. According to Mr. Dalal, the Delhi Land Reforms Act is in fact a law which prevents the fragmentation of agricultural holdings, fixes ceilings on those holdings and also provides the rules governing the devolution of tenancy rights in respect of such holdings. It is now necessary to analyze the various provisions of the Delhi Land Reforms Act so far as these three subjects are concerned.

(7) As regards the prevention of fragmentation of holdings, Mr. Dalal has referred to the judgment in *Gopi Chand and others v. Smt. Bhagwani Devi*, Air 1964, Punjab, 272(2); which has occasioned this reference, and has pointed out that it was held therein, that Section 50 of the Delhi Land Reforms Act did not provide for fragmentation at all. He has pointed out that Section 50 is not the provision in the Act which deals with the prevention of fragmentation of holdings, and the relevant Section is Section 33 and some other Sections of the Act. Chapter Iii of the Delhi Land Reforms Act has a Section 'D' which deals with the interests of Bhumidars and Asamis, and extends from Sections 31 to Section 47. There is another part of Chapter Iii which is Section 'F' dealing with the partition of the interest of Bhumidars which extends from Section 55 to Section 61. Mr. Dalal has referred to various Sections occurring in these portions of the Act to show that the effect of many provisions of the Delhi Land Reforms Act is to prevent fragmentation. In the judgment already referred to, reference was only made to the preamble of the Act which showed that the purpose was to modify the Jamindari system and create a uniform body of peasant proprietors without intermediaries. It is submitted that the preamble alone is not sufficient to show whether a law provides for the prevention of fragmentation of agricultural holdings, it is also necessary to see the effect of the various Sections in the body of the Act. As the provisions of the Delhi Land

Reforms Act have been amended from time to time, it is first necessary to deal with this case from the stand point of the law which was in force on the date of the death of Kishan Sahai, the father of the plaintiff and the defendant. The rule of succession applicable to his estate will depend on the state of the law on the date of his death. According to the Additional District Judge it appears that the death took place sometimes in 1956 shortly after the Hindu Succession Act was passed. This is also conceded before us. Mr. Dalal has referred to the provisions of Section 33 of the Act to show that there was a restriction on the transfer of a Bhumidar's interest. As the relevant time there was a double restriction in this Section both on the maximum as well as on the minimum holdings. The said Section ran as hereunder:-

'RESTRICTIONSon the transfers by a Bhumidar.-No Bhumidar shall have the right to transfer by sale or gift or otherwise any land to any person, other than an institution established for a charitable purpose or a body notified by the Chief Commissioner, where such a person shall as a result of the transfer become entitled to land which together with land, if any, held by him or together with the members of his family will, in the aggregate, exceed 30 standard acres, or where the transferor shall as a result of the transfer be left with an uneconomic holding of less than eight standard acres in the State. Explanationn.-For the purposes of this section a person's family shall, if the members are living jointly, consist of the persons himself, his minor children, his wife or her husband, as the case may be, and if the person himself is a minor, his father and mother.'

(8) Thus a person could not get land so as to become a Bhumidar of an area larger than 30 standard acres or transfer land so as to be left with a holding of less than 8 standard acres. Thus, this Section had the effect of preventing fragmentation. Then reference is made to Section 57 of the Act in which it is provided that there will not be a partition so as to arrive at holding of less than 8 standard acres. The said Section runs as hereunder:-

'MODEof partition of a holding.-(1).Except as provided in sub-section (3), whenever in a suit for partition, the Court finds- (a) that the aggregate area of the holding or holdings to be partitioned does not exceed eight standard acres, or (b)

that the partition will result in a holding of less than eight standard acres, the Court shall in the cases falling under clause (a) instead of proceeding to divide the holding or holdings direct the sale of the same and a distribution of the proceeds thereof, and in cases falling under clause (b), either proceed to divide the holding in accordance with such principles as may be prescribed or in the alternative dismiss the suit. (2) The rules framed under sub-section (1) shall prescribe the circumstances in which compensation may be awarded to a co-tenure holder in lieu of his share of holding and for the admission by the Gaon Sabha of such co-tenure holder to land under provisions of Section 73. (3) In the case of a co-tenure holder to whom the provisions of section 36 apply and such tenure-holder has let out his share or part thereof in the holding, the Court shall divide the holding by separating the share aforesaid, but in respect of the remainder of the holding the Court will proceed in accordance with the provisions of this section, if applicable.'

(9) It is unnecessary to deal with the various cases that might arise under this provision because they are provided for in subsequent sections of the same part of the Act. The effect of these provisions is to prevent any holding being of less than eight standard acres. Thus, there is no doubt that Mr. Dalal is right when he submits that provision has been made to prevent the holding of a Bhumidar being less than 8 standard acres and, therefore, the Act does provide for the prevention of fragmentation of agricultural holdings.

(10) It may be mentioned that Section 33 was amended in 1959 by Section 12 of the Central Act 4 of 1959. There was no material change in the provisions as originally contained. As the question to be decided in this appeal is of general application, it is also necessary to refer to the subsequent amendment which was brought about by the Delhi Land Holdings (Ceilings Act) 1960. By Section 28 of that Act, Section 33 of the [Delhi Land Reforms Act, 1954](#) was substituted and the amended Section had reference only to the minimum holding of a Bhumidar which was fixed at 8 standard acres. As regards the maximum holdings which was formerly fixed at 30 standard acres, provision was made in this new Act that the normal would be 30 standard acres but if a family exceeded 5 in number there would be an additional 5 standard acres for each person in excess of 5. This was provided by Section 3 of the Delhi Land Holdings (Ceiling) Act and, thus, after

1960 the provision fixing ceilings was no longer to be found in the [Delhi Land Reforms Act, 1954](#) but in the New Act.

(11) As the law to be applied to the present case, is the one A which existed in 1956 when the father of the plaintiff and defendant died, it is clear that at that time the Delhi Land Reforms Act was also a law fixing a ceiling on agricultural holdings. Reference has also been made to Section 42 of the [Delhi Land Reforms Act, 1954](#) which provides that if a transfer is made in contravention of the provisions of Section 33 i.e., in contravention of the minimum or maximum, then the transferee is to be ejected on the suit of the Gaon Sabha and the land is to become vacant land. Thus, there are clear restrictions to be found in the Act relating to both fragmentation of holdings as well as provisions regarding a ceiling on holdings, which after 1960 is to be found in the Central Act referred to already. Although, it will be quite sufficient for the purpose of this appeal to find that the Act does prevent the fragmentation of holdings, and did fix a ceiling on such holdings, it is also necessary to determine whether the Delhi Land Reforms Act is a law providing for the devolution of tenancy rights.

(12) On this part of the case it is urged that after the Delhi Land Reforms Act was passed only two types of holdings in agricultural land were possible. These are mentioned in Section 4(1) of the Act which runs as follows:-

'4.(1). There shall be, for the purposes of this Act, only one class of tenure-holder, that is to say, 'Bhumidar' and one class of sub-tenure holder, that is to say, 'Asami'. Thus a person could either be a Bhumidar of agricultural land or he could be an Asami. Elsewhere in the Act provision has been made for tenants to become Bhumidars and for proprietors to become Bhumidars if they are self-cultivators in actual possession. Thus as was held in *Hatti v. Sunder Singh*, : [1971]2SCR163 after the Act came into force, proprietors of agricultural land as such ceased to exist. If any land was part of a holding of a proprietor, he became a Bhumidar of it. If it was part of a holding of some other person, such as a tenant or a sub-tenant etc.. he became either a Bhumidar or an Asami, whereupon the right of the proprietor in that land ceased. Lands, which were not holdings of either the proprietor or any other person, vested in the Gaon Sabha.'

(13) The question is can the interest of a Bhumidar be described as a tenancy? We have been referred to Smt. Prema Devi v. Joint Director of Consolidation (Head Quarter) at Gorakhpur A Camp and others, : AIR1970 All238 . In that case the question was whether the Hindu Succession Act governed the succession to Bhumidari rights the U. P. Zamindari Abolition and Land Reforms Act. It was held as follows:-

'UNDER the U. P. Zamindari Abolition and Land Reforms Act which regulated the tenancy rights, there is no provision applying personal law to any of the tenures created under that Act and thus the provisions of the Hindu Succession Act are wholly inapplicable to the Land tenures under the U. P. Zamindari Abolition and Land Reforms Act.'

(14) There is no material difference between the Bhumidari rights under the Uttar Pradesh Act and the Bhumidari rights under the Delhi Land Reforms Act. However, in the case of U.P. Act it was also held that the Central Legislature had no power to make an enactment because the law in relation to this subject had to be passed by the State Legislature. This position did not hold true in the case of Delhi, as the Central Legislature did have power to make laws with respect to part 'C' States. Delhi was a part 'C' State in 1956 and thus there was no bar to the Hindu Succession Act applying to agricultural land, as was the case in relation to Part 'A' or Part 'B' States. At the relevant time in 1956, the Central Legislature and the Delhi State Legislature had concurrent legislative powers over many of the subjects contained in the State List, in the Seventh Schedule of the Constitution. therefore, the question whether Bhumidari rights are tenancy has to be determined with reference to the various provisions of the Delhi Land Reforms Act itself. The word 'tenure' used in relation to Bhumidari rights suggests that there was only a tenancy but the use of this word may not in itself be sufficient. For reference, it may be mentioned that Bouvier's Law Dictionary defines 'tenure' as follows:-

'THE mode by which a man holds an estate in lands. Such a holding is coupled with some service, which the holder is bound to perform so long as he continues to hold. The thing held is called a tenement; the occupant, a tenant; and the manner

of his holding constitutes the tenure.'

A question of this kind cannot be decided merely on the use of a single word. We are really concerned with the rights of Bhumidars rather than with their description.

(15) For the purpose of determining the rights of a Bhumidar, a reference has to be made to Section 22 of the Act which provides that a Bhumidar has the right to exclusive possession of the land in his holding and has the right to use it for agricultural and A related purposes. Section 23 prevents a Bhumidar from using the land in his possession for purposes other than agriculture except with the consent of the Chief Commissioner. Under Section 34 of the Act a Bhumidar has a limited right to effect a mortgage on his land. Under Section 35 of the Act a Bhumidar is debarred from effecting any .lease of his land except if he is a disabled person within the meaning of Section 36, of the Act. Under Section 43 of the Act it is provided that if any transfer of the holding or part of the holding of a Bhumidar is made with possession, it shall be deemed to be a sale. Thus a Bhumidar is obviously bound to retain possession of his interest at all material times if he is to continue to be a Bhumidar. It is further provided in Section 76 of the Act that a Bhumidar will not be ejected except under Section 33, 42, 46, 81, 86 and 87 of the Act. Sections 33, 42 and 46 deal p with transfers of a Bhumidar's interest made contrary to or in accordance with the Act and Sections 81, 86 and 87 deal with the ejectment of a Bhumidar in certain circumstances. Under Section 81, a Bhumidar is liable to be ejected if he uses the land for purposes not connected with agriculture. Under Section 86, certain trespassers who become Bhumidars under Section 85 can be ejected by the Gaon Sabha and under Section 87 a Bhumidar can be ejected for having planted a grove upon common customary lands etc. It is note-worthy that under Section 85 of the Act a person who is a trespasser of the holding of a Bhumidar himself becomes a Bhumidar if not ejected by taking proceedings under Section 84. Thus, it is quite plain that the interest of a Bhumidar is quite different from that of a normal tenant. But it is quite clear from the various provisions of the Act detailed above that a Bhumidar has not an unrestricted interest of his land. He is given the right to use the land in a particular manner. He cannot' lease out the land, he cannot transfer possession of it and he has to use it for agriculture. In a sense the Bhumidar can be described as

a tenant holding land under the State. According to the preamble of the Act, the purpose of the Act was 'to create uniform body of peasant proprietors without intermediaries and for the unification of the Punjab and Agra systems of tenancy in force in the State of Delhi etc.' In this preamble, it is note-worthy that intermediaries i.e., landlords have been abolished and the tenancy laws have been unified. If there is a unification of tenancy laws intended, one must inevitably conclude that the new reformed laws did deal with tenancies in agricultural land. Both the Punjab Tenancy Act and the Agra Tenancy Act were repealed by Section 2 of the Act. Thus, the only type of tenancy existing in agricultural land after the passing of the Delhi Land Reforms Act is denoted by the new tenure-holders, Bhumidars and Asamis. It may be that the rights of Bhumidars were somewhat different from tenants under the previous law but they did not become owners and, therefore, must be held to be nothing more than tenants with certain additional rights.

(16) Reverting again to the judgment in Gopi Chand and others v. Smt. Bhagwani Devi Air 1964 Pun 272 (2) it is noteworthy that this question was not agitated at that time. It was taken for granted that a Bhumidar was not a tenant. This impression was apparently based on the fact that there was a direct payment of land revenue by the Bhumidar to the State. It is normally the landlord who pays the land revenue to the State. Landlords were considered to be intermediary in the sense that they did not cultivate the land but gained its fruit; their interest was, therefore, abolished, and the tenants directly dealt with the State thereafter. This did not mean that the tenant was intended to be converted into an owner, but, merely that the tenant got a security of tenure similar to that held by an occupancy tenant under the Punjab Tenancy Act, 1887 and similar to that which an owner might have possessed earlier.

(17) In the Punjab Tenancy Act, 1887 it was provided that the tenancy rights of an occupancy tenant were to devolve according to the provisions of Section 59 of that Act. The rights have to devolve to the male lineal descendants, widows etc. The provisions of Section 50 of the Delhi Land Reforms Act which also provide for the devolution of a Bhumidar's interest to the male lineal descendant, widow etc., is more or less similar to that found in Section 59 of the Punjab Tenancy Act. The

purpose of the legislative reform brought about by the Delhi Land Reforms Act was merely to remove the proprietor in between the tenant and the State. The set up under the Punjab Tenancy Act was of State, landlord and tenant. The landlord held under the State, the tenant held under the landlord. After the passing of the Delhi Land Reforms Act, the landlord either disappeared or himself became a tenant. The new class of tenants created by this reform were called Bhumidars, and the permissible holders of subordinate interests under Bhumidars in the restricted sense envisaged by the Delhi Land Reforms Act were called Asamis. Thus, a construction of the various provisions of the Act show that the Delhi Land Reforms Act is a law dealing with the devolution of tenancy rights and is, therefore, saved by Section 4(2) of the Hindu Succession Act, 1956.

(18) Mr. Yogeshwar Dayal appearing amicus curiae has referred to certain extracts from the debate in the Lok Sabha at the time the Hindu Succession Act, 1956 was passed. The speeches made there indicated that the Hindu Succession Act, 1956 was not intended to apply to agricultural land. However, one cannot take any assistance from the said speeches for the purpose of interpreting the Act. As already stated, this case has to be decided by reference to the provisions contained in Section 4 of the said Act.

(19) Mr. Dayal has also referred to the objects and reasons for the Delhi Land Reforms Act 1954 published in the Delhi State Gazette Extraordinary Part IV, dated 21st September, 1953. The said objects and reasons give an indication of the object of the [Delhi Land Reforms Act, 1954](#) and are very helpful in appreciating the object of the Act. It may be recalled that the Preamble of the Act runs as follows:-

'AN Act to provide for modification of Zamindari system so as to create an uniform body of peasants proprietors without intermediaries, for the unification of the Punjab and Agra systems of tenancy laws in force in the State of Delhi and to make provision for other matters connected therewith.'

(20) This would show that the object of the Act was to modify the Zamindari system, unify the Punjab and Agra Systems of tenancy laws and also to make provision for other matters connected therewith. It is these other matters which are

important in the present case. The various provisions of the Act which indicate that provision has been made for ceilings on holdings as well as provision for preventing fragmentation etc., have already been referred to. In the statement of object and reasons in relation to these two subjects it is stated thus:-

'In order that production may not suffer, the idea of introducing a ceiling now has been abandoned, but an upper limit of 30 standard acres has been placed to the extent of land that an individual may hold in future on the same lines as in U.P. Provisions have also been made to facilitate reclamation of land. These will be unrestricted even by future ceiling, with the special permission of the Chief Commissioner. To avoid multiplication of uneconomic holdings a restricted table of devolution has been laid down for all Bhumidars as well as Asamis and future partition of holdings which would result in the creation of an uneconomic holding has been prohibited.'

(21) This extract from the objects and reasons would support the plaintiff's case that there was intended to be a provision for fixing ceiling on holdings as well as provisions to prevent fragmentation of holdings and, thus the [Delhi Land Reforms Act, 1954](#) in so far as it related to the devolution of Bhumidari rights would be saved from the operation of the Hindu Succession Act, 1956 by reason of the non-obstante clause to be found in Section 4(2) of the said Act.

(22) Another extract from the aforementioned statement of the objects and reasons also indicates the nature of the reform brought about by the [Delhi Land Reforms Act, 1954](#). The relevant extract runs as under:-

'A Land Reforms Committee consisting of Members of State Legislature and an M.P. was soon set up. After careful consideration and examination of the complex problems involved it was decided that while unifying the two existing systems of tenure, the Zamindari system should be disintegrated by divesting the Zamindars, who are merely a body of peasant proprietors of some of their rights and placing them more or less on the same levels of tenants with security of tenure. At the same time the tenants should be given opportunities to rise to the level of peasant proprietors so that the resultant picture be one of a democratic peasantry. It was also decided that in view of the Zamindars being petty proprietors and the State

being so small, a direct and simple method for the payment of compensation to the Zamindars should be evolved as it would not be possible for the State to undertake the elaborate and expensive procedure of acquiring the rights, title and interest from the proprietors for monetary considerations and then reforming the tenancy system after realizations from tenants for securing them better rights'.

(23) This extract would show that the object of the Act was to reduce landlords to the same position as envisaged by the tenants and at the same time to give the tenants themselves additional rights. Thus, the resultant body of tenure holders would be tenants with certain additional rights. The object of the legislation was to prevent any future relationship of landlord and tenant coming about. This object is again set out in the statement of objects and reasons at another place which may also be usefully mentioned. It reads as under:-

'In order that no relationship of landlord and tenant may re-emerge in future, a Bhumidar will not be allowed to lease out his land, except when he is suffering from a disability such as minority, lunacy, etc. Such lessees will be Asamis who will hold the lease until the disability lasts. The remaining class of Asamis will be lessees of pasture lands, singhara cultivation or cultivations in the bed of a river, etc. Thus Asamis will be the only class of persons paying rent in future and cultivating land in which stable rights cannot be given or to whom land is let by incapacitated Bhumidars.'

(24) Thus, this extract would affirm the view already expressed above that the [Delhi Land Reforms Act, 1954](#) was intended to deal with the devolution of tenancy rights. This follows from the intention to abolish landlordism and to give the tenants security of tenure. Thus, Bhumidars have to be considered as tenants. Consequently, the rules of Succession set out in Section 50 of the Delhi Land Reforms Act, 1954 have to be considered as the rules of succession to tenancy rights. This provision is thus saved for this reason also from repeal by the Hindu Succession Act, 1956.

(25) It is now necessary to mention that we have been referred to the judgment of Sachar J. in Civil Revision No.583 of 1970 in which Gopi Chand and others v. Shrimati Bhagwani A.I.R. 1964 Pun 272 was followed. In this case. Pandit J's

judgment already referred to was followed and no other point was urged.

(26) In view of the conclusion that the Delhi Land Reforms Act provides for the prevention of the fragmentation of agricultural holdings and also, at the material time fixed ceilings on agricultural holdings and also dealt with the devolution of tenancy rights on such holdings, it must be held that this law is saved by section 4(2) of the Hindu Succession Act and is not repealed by the provisions of the Hindu Succession Act. This would mean that the rule of succession governing Bhumidars is to be found in section 50 of the Delhi Land Reforms Act and not in the Hindu Succession Act, 1956.

(27) We must express our thanks to Mr. Yogeshwar Dayal for his valuable assistance to us as *amices curiae*.

(28) In view of our conclusions, this appeal has to be accepted and a decree has to be granted to the plaintiff-appellant declaring that the order of the Revenue Officer dated 26th September, 1958 sanctioning mutation No. 812 with respect to the land in dispute in the joint names of the plaintiff and the defendant was wrong and illegal and the plaintiff alone was entitled to the land. The consequential relief prayed for by the plaintiff in the form of an injunction restraining the defendant from interfering with his possession is also granted. However, the parties will bear their own costs throughout.