

Ram Saran Lall Vs. Ram Narayan Singh

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Court : Kolkata

Decided On : Jun-16-1914

Reported in : AIR1915Cal612,(1915)ILR42Cal305

Judge : Stephen and ;Multich, JJ.

Appellant : Ram Saran Lall

Respondent : Ram Narayan Singh

Disposition : Appeal allowed

Judgement :

Stephen and Mullick, JJ.

1. The plaintiff in this case is the zemindar of Perganas Raj Ramgarh which includes Mauza Salga, of which he says that a Jaigir was granted to one Kanai Singh in 1852. Kanai had two sons, of whom one predeceased him, dying childless, and the other Bansi Lal succeeded him, but died in 1897 without leaving male issue. The plaintiff succeeded in collecting rents for two years, but was dispossessed by the defendants in 1899. He now sues for possession and mesne profits, alleging that he is entitled to resume his ancestor's grant on the failure of male issue of the grantee.

2. To this claim the defendants set up two defences, one based on fact and one on law. The first was that the grant was made not to Kanai, as the plaintiff says, but to Raghu, Kanai's father, of whom the defendants are descendants in the male line. There are many difficulties about this defence which is not supported by the evidence, and it was given up in the lower Court, and not raised here, and need not, therefore, be further noticed. The second defence raises a question of some importance. The facts are that the subject matter of the original grant was certainly a jaigir, and it was conveyed to Bansi with the words, or word, 'putra poutradi' the significance of which we have to determine. Also there is evidence which may be summarised by saying that it shows that jaigirs granted by the Raj were terminable on the death of male heirs, though there is no case to show that this was so where the words 'putra poutradi' were used.

3. There is good authority for saying that a grant of a jaigir is a grant for life only: see Reg. XXXVII of 1793, Section 15, and *Gulabdas Jugivandas v. The Collector of Surat* (1878) I. L. R. 3 Bom. 186 ; L. R. 6 I. A. 54. The question is how is this estate extended by the addition of 'putra poutradi' The words literally translated are, as we understand putra-son, poutra-grandson, and adi-others, but the expression must of course be construed in the first place according to any construction that has been legally recognised. Such a construction is to be found in the following cases. In *Ramlal Mookerjee v. The Secretary of State for India in Council* (1881) I. L. R. 7 Calc. 304, 315; the Privy Council recognised as correct a construction of 'putra poutradi krame' which regarded it as implying an absolute and heritable estate, and as passing an estate of inheritance. The principal question there argued was whether the words would apply to a female as well as a male descendant; but the question arose in an administration suit and the decision that the words in question passed an absolute estate of inheritance cannot be treated as obiter. The same view seems to have been taken in *Bhujanga Rau v. Ramayamma* (1884) I. L. R. 7 Mad. 387. L. R. 8 I. A. 46, 62. In *Lalit Mohan Singh Roy v. Chukkun Lal Roy* (1897) I. L. R. 24 Calc. 834, 849, the same words as before were treated by the Privy Council in the same way. On the other hand, in *Perkash Lal v. Rameshwar Nath Singh* (1904) I. L. R. 31 Calc. 551, 569. this Court laid down that in Chota Nagpur the general rule recognised by the Privy-Council was modified by a custom that the words 'al aulad' were to be interpreted as

limiting a grant to the lineal male descendants of the grantee, and it is argued and in our opinion cannot be denied, that no wider construction can be given to the words 'putra poutradi.' But this custom was in effect applied only to a village in the Pergana Kauda. It is stated to be applicable to Chota Nagpur, which may mean the Pergana so named, or the area now known as the Chota Nagpur Division. If the former, the custom does not apply in this case; if the latter, it seems that the decision was wider than was necessary on the facts of the case. In the case of *Roopnath Konwur v. Juggunnath Sahee Deo* (1836) 6 S. D. A. Sel. Rep. 158, a jagir was granted 'nussulun-bad-nussulun' in lieu of services, and a custom that the zemindar should resume the grant on the death of the jagirdar without lineal descendants was recognised. The limits of the custom are not however prescribed, and the custom there acted on is not that which is now set up.

4. The result is that we see nothing in the cases to modify the general rule laid down by the Privy Council, in its application to the present case.

5. Under these circumstances, we hold that the original grantee took an absolute heritable and alienable estate; and that all his heirs are capable of inheriting it.

6. The result is that the appeal is allowed, the judgment and decree of the lower Court is set aside and the suit is dismissed with costs here and in the lower Court.