

Osman and anr. Vs. Emperor

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Court : Kolkata

Decided On : Apr-03-1935

Reported in : AIR1936Cal124

Appellant : Osman and anr.

Respondent : Emperor

Judgement :

ORDER

Nasim Ali, J.

1. It appears from the records of the two cases that the right, title and interest of the petitioner Osman in revision case 157 and that of the petitioner Badsha in the other revision case in the disputed plots were extinguished by the auction sales at which Khanda Sundari Debi purchased them. The trying Magistrate has found that the complainant in the two cases grew the crops which were removed by the accused petitioner. The learned Sessions Judge has not reversed the findings of the trying Magistrate. Even if it be assumed that the accused grew the crops, they, being trespassers, had no right to remove them after the real owner got actual possession of the lands through the civil Court in pursuance of the orders of the civil Court under Clause 6 (iii), Section 26-F, Ben. Ten. Act read with Order 21, Rule 35, Civil P. C. The writs of possession issued by the civil Court clearly show that possession of the whole of the disputed lands was delivered to Debendra

Chandra Lahiri, one of the co-sharer landlords without any objection from the other co-sharer landlords. In the face of the order of the civil Court it is not open to the criminal Court to adjudicate upon the rights of the landlords as between themselves. The petitioners were therefore rightly convicted. The rules are accordingly discharged.

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