

"209. Ejectment of persons occupying land without title. - (1) A person taking or retaining possession of land otherwise than in accordance with the provisions of the law for the time being in force, and -

(a) where the land forms part of the holding of a bhumidhar, sirdar or asami without the consent of such bhumidhar, sirdar or asami,

(b) Where the land does not form part of the holding of a bhumidhar, sirdar or asami without consent of Gaon Sabha,

shall be liable to ejectment on the suit in cases referred to in clause (a) above, of the bhumidhar, sirdar or asami concerned, and in cases referred to in clause (b) above, of the Gaon Sabha..... and shall also be liable to pay damages.

(2) To every suit relating to a land referred to in clause (a) of sub-section (1) of State Government shall be impleaded as a necessary party."

Section 210 reads :

"210. Failure to file suit under Section 209 or to execute decree obtained thereunder. - If a suit is not brought under Section 209 or a decree obtained in any such suit is not executed within the period of limitation provided for the filing of the suit or the execution of the decree, the person taking or retaining possession shall -

(i) where the land forms part of the holding of a bhumidhar, or sirdar, become a sirdar thereof and the rights and interest of an asami, if any, on such land shall be extinguished,

(ii) where the land forms part of the holding of an asami on behalf of the Gaon Sabha become an asami holding year to year,

(iii) in any case to which the provisions of clause (b) of Section 209 apply, become a sirdar or asami holding from year to year as if he had been admitted to possession of the land by the Gaon Sabha."

3. On a reading of these two sections, it is clear that they relate to suits for ejectment and not to suit for partition for which provision is made under Section 176 of the Act. For suits for ejectment under Section 209 a limitation of three years is prescribed. No period of limitation is prescribed under that Act for a suit for partition. The suits with which we are concerned are suits for partition. Therefore, neither Section 209 nor Section 210 is applicable to these suits. That was the conclusion reached by the High Court. We are entirely in agreement with that conclusion.

4. In this Court an attempt was made by Mr. G. K. Dixit, learned counsel for the defendant, to show that the plaintiffs have no title to the suit property in view of Section 15 of the Act. No such contention appears to have been taken either in the pleading or before the trial court or the appellate court or the High Court. To decide that contention, it is necessary to decide certain questions of fact. Hence, we have not permitted him to take that contention.

5. No other contention was raised before us. In the result, both these appeals fail and they are dismissed with costs.

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