

Rana Sheo Ambar Singh

Vs

Allahabad Bank Ltd. and Others

Civil Appeal No. 2041 of 1968

(CJI M.H. Beg, P.S. Kailasam, A.C. Gupta JJ)

18.02.1977

JUDGMENT

BEG, C.J. –

1. This appeal by certificate raises the simple question whether certain trees, said to be part of a grove, are included in grove-land, which, under Section 6(a)(i) of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (hereinafter referred to as the Act), vests in State of Uttar Pradesh free from all encumbrances. This very question was raised by the respondent-decree-holder in the execution proceedings in this very case, between the same parties, which came to this Court on an earlier occasion. We have perused the judgment of this Court in the case (Rana Sheo Ambar Singh v. Allahabad Bank Ltd., Allahabad, (1962) 2 SCR 441 : (1962) 1 SCJ 679 : AIR 1961 SC 1790). We find that the position taken by the respondent-decree-holder then also was that, after the coming into force of the Act, what could still be sold in execution of the decree was the right in trees of groves as these mentioned to vest in the intermediary. This Court rejected that submission and held that, after vesting of all the rights mentioned in Section 6 of the Act in the State of Uttar Pradesh new bhumidhari rights came into existence under Section 18 of the Act. It also held that the only way in which a mortgagee could enforce his right against the mortgagor after the Act came into force is provided in Section 6(h) of the Act, read with Section 73 of the Transfer of Property Act, 1882, so that nothing more than the compensation awarded to the intermediary could be proceeded against by the mortgagee.

2. We are surprised that, even after that decision which, according to the appellant-judgment-debtor constitutes a complete answer to any further execution proceedings in respect of any part of bhumidhari rights, execution should have proceeded against trees in groves and the view taken by the execution court, that there is a distinction between trees and a grove and grove-land, should have been upheld by a Division Bench of the Allahabad High Court (Lucknow Bench). We find that it is impossible for us to accept this opinion in view of the definition of the intermediary's groves under Section 3(13) of the Act, which says : "intermediary's grove" means grove-land held or occupied by an intermediary as such". This means that "grove-land" and "intermediary's grove" are equated. And groves are only collections of trees in plots of lands so as to preclude cultivation in them. The uncut trees are deemed to be parts of the land.

3. Section 18(1)(a) of the Act provides that an "intermediary's grove" is bhumidhari property. Rights in it are parts of bhumidhari rights. After those clear words of the enactment, we think it is not necessary even to consider previous definition or to make out specious or unrealistic distinctions between standing uncut trees, which are parts of groves, and groves and groves-land. The proposition is well settled under the general law, that trees, before they are cut, form parts of 'land'.

And, an inseparable part is always included in the whole. In view of this very clear legal position, we allow this appeal and set aside the judgments and decrees of the High Court and the Execution Court with costs.

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