

Bhola and Another

Vs

Murthi Mandir Shri Jai Narayanji and Another

Civil Appeal No. 368 (N) of 1976

(V. R. Krishna Iyer, P. S. Krishna Iyer JJ. )

16.11.1977

JUDGMENT

KRISHNA IYER, J. -

1. This is an appeal by special leave by a tenant who lost in the High Court although he had succeeded before the Board of Revenue and the Revenue Appellate Authority. The subject-matter of the litigation stems from a suit for a declaration by the plaintiff (who is the appellant before us) to the effect that he is a tenant of the lands covered by the suit. The landlord-respondent is the deity of Shri Jai Narayanji represented by the shebait. The trial Court (the revenue Court at the floor level) dismissed the suit. But in appeal the plaintiff-appellant was held to be a khatedar tenant under Section 19 of the Rajasthan Tenancy Act. When a second appeal was carried to the Board of Revenue the appellants' position as a khatedar tenant was maintained but rested on Section 15 of the Act. When the matter reached the High Court at the instance of the landlord, the decision earlier rendered by the revenue authority was reversed on grounds which we find difficult to follow to put it mildly.

2. After a full debate of the case, it became fairly plain that whether the version of the plaintiff or of the defendant were true on fact, the plaintiff was entitled to the status of khatedar tenant. However at the end of the arguments, Shri Tarkunde appearing for the appellants stated that now that he was sure of being treated as a tenant under the statute by virtue of Amendment Act 7 of 1959 to Section 19 of the parent Act, he was willing by way of concession to pay compensation computed on the basis prescribed in Section 19(4) of the Act without prejudice to such contentions as may be raised under Section 15. This gesture is acceptable to the respondent in view of the fundamental flaws in his case as emerged during the debate.

3. We therefore hold that the appellant is entitled to the status of a khatedar tenant of the lands covered by the suit and declare so. We further direct the appellants to pay compensation to the respondent on the basis fixed under Section 19(4) of the Act. The respondent will move the appropriate revenue authority for fixation of the compensation whereupon the said sum will be paid by the appellants. We allow the appeal and reverse the judgment of the High Court, but, in the circumstances, the parties will bear their own costs throughout.

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