

Chander Singh

Vs

Raghunath Singh

Civil Appeal No. 80 of 1970

(N.L. Untwalia, O. Chinnappa Reddy JJ)

09.01.1981

JUDGMENT

UNTWALIA, J. -

1. Since we find no merit in this appeal, we do not consider it necessary to state the facts in any detail or to discuss any point elaborately. We may just state the only point urged before us and reject it briefly.

2. The history of the case is found in the judgment of the courts below. We state only one fact. In the year 1954 the plaintiff-appellant had filed a suit against the defendant-respondent (who died during the pendency of the appeal in this Court and his heirs have been substituted, but by defendant-respondent we mean original defendant-respondent) for his eviction treating him as trespasser on the ground that he had parted with the land in question in favour of somebody else. This fact was denied by the respondent in that suit, and at the same time he also asserted that he was not a sub-tenant under the plaintiff but was himself a pucca krishak. The suit was in the Revenue Court. The Tahsildar decreed it. In pursuance of that decree the appellant obtained possession of the land. The decree was, however, set aside in appeal and eventually remained set aside by the decision of the Revenue Commissioner also. Before the respondent could recover back possession of the land the present suit giving rise to this appeal was filed. The trial court dismissed the suit holding that the respondent had become an occupancy tenant by virtue of Section 185(1)(i)(b) of the M.P. Land Revenue Code, 1959. The appellate court reversed this decision of the trial court and took the view that since the respondent had denied the plaintiff's title in the suit of 1954 he was not entitled to the benefit of the said provision of law. When the matter went to the High Court at the instance of the respondent in second appeal, it appears, the argument in the High Court proceeded on the footing that since in the year 1959 the respondent was not in possession of the land as he had been dispossessed pursuant to the Order of the Tahsildar made in the suit of 1954 he was not entitled to the benefit of Section 185 of the M.P. Land Revenue Code, 1959. The High Court repelled this argument on the ground that since the Order of Tahsildar had been negated by higher authorities, in the eye of law, the tenant would be deemed in possession. The learned counsel for the appellant did not dispute this view of the High Court and in our opinion rightly. He, however, rested his argument on the basis of the view of the first appellate court. We have examined various aspects of this matter. We have also considered the decision of the M.P. High Court in *Khanderao Ram Bux v. Sonal Das Anand Rao* (1963 MP LJ 666 : 1963 JLJ 358). The decision of the M.P. High Court is clearly distinguishable and does not cover the present case. In the instant case the respondent had merely denied that he was a tenant under the appellant. He had not put any adverse title in himself. He asserted that the appellant was a Maufi Inamdar. He was coming as a tenant under the ruler of Sailena and thereby had become a pucca krishak and not a sub-tenant under the Maufidar. In our

opinion the point as urged in this Court has no substance. The decision of the High Court is correct. We accordingly dismiss the appeal with costs.

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