

Kanchan Lal and Others

Vs

Board of Revenue and Others

Civil Appeal No. 40 of 1979

(M. H. Kania, N. M. Kasliwal JJ)

20.12.1989

JUDGMENT

KASLIWAL, J. –

1. This appeal by special leave is directed against the judgment of the Allahabad High Court dated May 23, 1978.
2. This litigation has a long chequered history, but we narrate the brief facts which are necessary for the disposal of this appeal. Gopal Narain and Tula Ram were tenants of agricultural plots Nos. 154, 171 and 177 in Village Fatehpur Rai Saheb, Pargana Bhojpur, District Farrukhabad. Smt. Rani Chauhani was landholder of these plots. She obtained surrender of these plots by coercion on September 14, 1943 from the aforementioned Gopal Narain and Tula Ram. Smt. Rani Chauhani then inducted Sita Ram, Ram Kishan and Babu Ram as tenants on December 9, 1944. Gopal Narain and Tula Ram started proceedings for reinstatement under Section 27(2) of U.P. Act 10 of 1947 within six months of the enforcement of the said Act. This application was dismissed by the Consolidation Officer and appeal filed against it was also dismissed. A revision filed by Gopal Narain and Tula Ram before the Additional Commissioner was referred to the Board of Revenue. The reference could not be decided by the Board of Revenue as the village where the land in question was situated came under operation of consolidation proceedings. The revision was, therefore, stayed and the application filed by Gopal Narain and Tula Ram under Section 27(2) of U.P. Act 10 of 1947 was held to have abated.
3. Gopal Narain and Tula Ram in these circumstances filed objections before the consolidation authorities contending that they were hereditary tenants of the land in dispute and the surrender of land having been secured from them by Smt. Rani Chauhani by means of coercion, they were entitled to reinstatement. The objection filed by Gopal Narain and Tula Ram were contested by the newly inducted tenants Sita Ram, Ram Kishan and Babu Ram. These proceedings were finally decided in favour of Gopal Narain and Tula Ram by a decision of Division Bench of Allahabad High Court in Special Appeal No. 367 of 1967 dated April 23, 1971. In the aforesaid decision, it was held that Gopal Narain and Tula Ram had been dispossessed by coercion and as such were entitled to reinstatement.
4. Gopal Narain and Tula Ram, in the meantime, filed two suits for ejection of Sita Ram, Ram Kishan and Babu Ram under Section 202 of Zamindari Abolition and Land Reforms Act, 1950. Both the suits were dismissed by Revenue Officer by order dated May 31, 1973. Appeal filed against the order of the Revenue Officer by order dated May 31, 1973. Appeal filed against the order of the Revenue Officer was also dismissed by the Additional Commissioner, Allahabad. Gopal

Narain and Tula Ram then filed Second Appeals Nos. 390/310 of 1974-75 in the Board of Revenue. The Board of Revenue by a common judgment allowed both the appeals, set aside the orders passed by the learned Additional Commissioner and the trial court and gave a direction that the defendants shall be ejected from the land in dispute and possession shall be delivered to the plaintiffs appellant. Aggrieved against the judgment of the Board of Revenue, Ram Kishan, Babu Ram and Kanchan Lal s/o Sita Ram (since deceased) filed a writ petition in the High Court. Before the learned Single Judge an argument was raised that the Board of Revenue committed an error in decreeing the suits of the plaintiffs as the defendant-petitioners had become asami on July 1, 1952 by operation of law, and the plaintiffs having failed to institute a suit within one year, the present suits filed in 1966 were barred by time. The above contention raised by the petitioners in the writ petition was not accepted by the learned Judge and the writ petition was dismissed on May 23, 1978.

5. Kanchan Lal s/o Sita Ram, Ram Kishan and Babu Ram have filed the present appeal by obtaining special leave from this Court.

6. We have heard learned counsel for the parties at great length. Though Mr. J. P. Goel, learned counsel for the petitioners, argued the appeal and raised several questions on the merits of the appeal, we do not think it necessary to go into the merits of the appeal as, in our view, it is not a fit case for interfering in the order of the High Court in the facts and circumstances of the case.

7. The facts which are no longer in dispute are that Gopal Narain and Tula Ram who were the tenants, were made to surrender the possession of the land by coercion in favour of the landholder, Smt. Rani Chauhani as far back as July 14, 1943. Soon thereafter, the present petitioners were inducted as tenants by Smt. Rani Chauhani on December 9, 1944. Gopal Narain and Tula Ram then started proceedings for their reinstatement over the land as early as in 1947 and these were finally decided by a Division Bench of the High Court in 1971 and these were dispossessed by coercion by Smt. Rani Chauhani and were entitled to reinstatement. Admittedly, the above judgment of the High Court has become final between the parties. Before the culmination of the above proceedings in favour of Gopal Narain and Tula Ram in 1971, they instituted two suits for ejection of the petitioners before us. As already mentioned above, the suits were decreed by the Board of Revenue and the High Court dismissed the writ petition filed by the petitioners by order dated May 23, 1978. Thus, without going into the merits of any controversy raised in the arguments by Mr. Goel, learned counsel appearing for the petitioners, we are clearly of the view that it is not a fit case calling for any interference by this Court. It is well settled that this Court is not a regular court of appeal and the extraordinary jurisdiction conferred under Article 136 of the Constitution will be exercised only when it finds a specific and grave injustice having been done to the petitioners or any exceptional and special circumstances shown in the case. On the facts narrated above, we are rather convinced that substantial justice has been done in favour of the respondent and there is no ground or justification for interfering in the order passed by the High Court. It is also clear from the record that respondents have already taken possession over the land in dispute in 1984.

8. In the result, we find no force in this appeal and it is accordingly dismissed with no order as to costs.

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