

Murlidhar Jain

Vs

State of Meghalaya & Ors.

(K.Ramaswamy, S. Saghir Ahmad. G. B. Pattanaik JJ)

07.05.1997

ORDER

1. Leave granted.

2. This special leave petition has been filed against the Division Bench judgment of the Gauhati High Court, made on December 20, 1996 in First Appeal No. 58/90.

3. The appellant had filed a civil suit for perpetual injunction seeking declaration of his title as landholder of the property. The trial Court granted the decree. But on appeal, the High Court reversed it in the first Appeal No. 58/90 dated December 20, 1996. The Division Bench of the High Court affirmed that order in appeal. The question is: whether the appellant is entitled to the declaration of his title in respect of the property. Shri Goswami, learned senior counsel for the appellant, contends that initially the appellant had come into possession of the property in his character as a tenant by virtue of perpetual lease for 99 years, after the expiry of the initial period of leases in 1965 though the Government had not renewed the lease, nonetheless the Government had impliedly renewed the same by accepting the rent. The property was required for a public purpose and that the Government continued to be in possession of the property as a tenant recognising title of the appellant. Therefore, the High Court was clearly in error in rejecting the claim of the appellant and confirming the decree of the appellate Court. In support thereof, the place reliance on *Bishan Das & Ors. Vs. State of Punjab & Ors.* [AIR 1991 SC 1570]. We find no force in the contention. It is an admitted position that renewal was not granted. Thereby, the previous lease stood expired and the relationship as tenant and landlord came to be terminated. He accepted the title of the Government; thus thereafter, he continued to be in possession as a trespasser. It is true that a lower level officer accepted the rent; and recognition was obviously made on a mistaken impression that the land was required for a public purpose; but on the basis thereof, it cannot be construed that the title of the appellant was confirmed by the conduct of the Government. Accordingly, the declaration of title as landholder cannot be granted. The High Court, therefore, was right in refusing to grant the relief. It is not a case of taking possession without due process of law. The possession only continues to a facet of the facts. Apart from that there is no other documentary evidence on the basis of which it could be concluded that the title of the Government is defeated by acceptance of the rent or by requisition of the property by mistaken act on the part of Government.

4. The appeal is accordingly dismissed. No costs.