

Bishwanath Pandey vs Badami Kaur And Ors. on 26 February, 1980

Equivalent citations: AIR1980SC1329, (1980)2SCC349, 1980(12)UJ330(SC), AIR 1980 SUPREME COURT 1329, 1980 ALL. L. J. 580, 1980 UJ (SC) 330, 1980 (2) SCC 349

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Bench: P.S. Kailasam, S. Murtaza Fazal Ali

JUDGMENT

S. Murtaza Fazal Ali, J.

1. This appeal by certificate is directed against the judgment of the Allahabad High Court dated 3.2.1969 dismissing the Writ Petition filed by the appellant in limine. The undisputed facts of the case are that Smt. Badami Kaur was a widow of the last proprietor of the lands in dispute and she was recorded as such. The case was decided before the Consolidation authorities mainly on the basis of a statement alleged to have been given by Smt. Badami Kaur some time in the year 1931 as a result of which she was mutated as a widow of her husband. It was pleaded by the reversioners that the mutation was only by way of consolation without any rights in the properties which were to go to her collaterals; namely the respondents. This statement was made at a time when neither the U. P. Zamindari Abolition and Land Reforms Act was passed nor the Hindu Succession Act came into force. At the time when the matter was decided by the Deputy Director of Consolidation both the Acts had been passed which conferred absolute proprietary rights on Smt. Badami Kaur who is still alive. Once Smt. Badami Kaur became an absolute owner of the property, the respondents' interest as collaterals ceased to exist and they had therefore no locus to challenge the status of Smt. Badami Kaur. The Deputy Director of Consolidation therefore proceeded on a totally erroneous view of law in holding that Smt. Badami Kaur had merely a life interest and the property should go to the respondents who were the collaterals. During the pendency of this appeal, it appears that Smt. Badami Kaur has executed a deed of gift in favour of the appellant. It is however not necessary to go into the validity or otherwise of the gift in view of the fact that Smt. Badami Kaur is still alive and is the absolute Proprietor of the land in question. She has a right to admit anybody as co-tenant. The appeal is accordingly allowed and the judgment of the High Court and of Deputy Director Consolidation dated 25-7-1968 are set aside and that she is directed to be recorded as the absolute owner and Bhumidar of the land in dispute.

2. In the peculiar circumstances of this case, there will be no order as to costs.