

Allahabad High Court

Ram Prasad Tamoli vs Benares Cotton And Silk Mills, ... on 9 January, 1930

Equivalent citations: AIR 1930 All 399

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JUDGMENT Dalal, J.

1. Both learned counsel, Mr. Mukhtar Ahmad and Mr. Govind Das, have helped the Court by placing before it all the relevant rulings on the subject. The Cotton Mills of Benares obtained a kabuliyat from Ram Prasad for purchase of grass growing on two groves within their compound for one year. The document was stamped with a stamp of one anna and the proper fee has now been received together with penalty and the document admitted in evidence. The purchase was for a sum of Rs. 600, out of which Rs. 300 had been paid and a suit was brought by the company in the Court of Small Causes for the recovery of a sum of Rs. 300. There is a certain amount of apparent conflict between two rulings of this Court, one in the case of B. & N.W. By. v. Bandhu Singh [1909] 31 All. 342, and the other of Manohar Lal v. Gauri Rautain [1911] 12 A.L.J. 36. I think the conflict, however, has been set at rest in favour of the later ruling of 1913 by the present Tenancy Act (3 of 1926) subsequent to the passing of which the present suit was instituted. In the Act of 1901 'land' was vaguely defined as land which is let or held for agricultural purposes, while in the current Act the definition is further elaborated to include grove land and land let or held for pasturage. It further includes land covered by water used for the purpose of growing 'singhara' or other similar produce. The only kind of land excluded is land for the time being occupied by dwelling-houses or manufacturies or land appurtenant thereto. In the former Act 'rent' did include cash or kind to be paid or delivered by a tenant on account of gathering produce. The matter, however, was not so clear as it is now made by including 'sayar' in rent for the purposes of Chap. 9, Tenancy Act, for the payment and recovery of rent. As defined in Section 3(4) of the Act, 'sayar' includes whatever is to be paid or delivered to a landholder by a lessee or licensee on account of the right of gathering produce. The present definition of rent, therefore, so far as the recovery thereof is concerns, is made much wider and would include the payment to be made even by a licensee. In the present case Ram Prasad is obviously a licensee who was permitted to enter the compound of the company for the purpose of cutting grass when it grew and taking it away. The learned counsel for the respondent pointed out that there was no right conferred by such a license to immovable property as was held in Mathura Das v. Judubir Thapa [1906] 28 All. 277. Recently this ruling by a single Judge was followed by a Bench of two Judges here in Raja Devi v. Muhammad Yaqub A.I.R. 1925 All. 411. This matter, however, relates to the registration of a document by reason of growing crops being exempted by the Registration Act from the expression 'land.' In the present case also the kabuliyat is not registered but was rightly admitted into evidence by the trial Court. These two rulings do not solve the question whether 'rent' payable by a licensee for the cutting of grass may be recovered in a Court of Small Causes, or whether the licensor must go to the revenue Court to recover the same. As I have explained above the single Judge ruling in the case of Manohar Lal of 1913 is now well supported by statute.

2. I hold that the suit was triable by a Court of revenue. I set aside the decree of the trial Court dated 22nd July last and direct that Court to return the plaint for presentation to a proper Court.

3. Costs relating tffo court-fee would naturally follow the order of the revenue Court. Parties shall bear all their other costs themselves.