

Supreme Court of India

Ajitsinh C. Gaekwad And Ors. vs Dileepsinh D. Gaekwad And Ors. on 3 March, 1987

Equivalent citations: JT 1987 (3) SC 164, 1987 Supp (1) SCC 439

Author: M Thakkar

Bench: B Ray, M Thakkar

JUDGMENT M.P. Thakkar, J.

1. Having heard learned Counsel for the parties and having perused the judgments of the Gujarat Revenue Tribunal and the High Court we are of the opinion that the view taken by the High Court which is a plausible view cannot be faulted. We see no good reason to unsettle the law which has been settled by the High Court as early as in 1973. We accordingly confirm the decision of the High Court subject to modification to the following extents :-

The High Court has directed the parties to approach the Civil Court in order to get the questions decided by the civil court. We are of the opinion that since it is respondent No. 1 who is laying a claim to the amount which has been awarded on the abolition of the tenure in respect of which the name of predecessor-in-interest of appellants is recorded it is for respondent No. 1 to approach the civil court in order to establish such right as is claimed by him and that the appellants should not be obliged to file a suit. It will be open to respondent No. 1 to institute a suit in order to establish his right, if any, in respect of the compensation amount latest by July 15, 1987. If respondent No. 1 institutes such a suit, the intervening period will be treated as having been occupied in prosecuting the matter in good faith and no question of limitation will be permitted to be raised. In case respondent No. 1 does not file a suit by July 15, 1987, the authority before whom the amount is lying will make over the amount of compensation to the appellants. If on the other hand, such a suit is filed the trial court will permit the appellants to withdraw the amount on furnishing sufficient bank guarantee to cover the unpaid amount along with interest after hearing the parties. The learned Judge will ensure that respondent No. 1 is properly protected and in case he succeeds he is able to reap the fruits of litigation by ensuring that the bank guarantee is for the proper amount.

2. The appeal is disposed of accordingly. There will be no order as to costs.