

Supreme Court of India

Jai Prakash vs Satnarain Singh on 12 January, 1993

Equivalent citations: 1994 SCC, Supl. (1) 153

Author: L Sharma

Bench: Sharma, L.M. (Cj)

PETITIONER:

JAI PRAKASH

Vs.

RESPONDENT:

SATNARAIN SINGH

DATE OF JUDGMENT 12/01/1993

BENCH:

SHARMA, L.M. (CJ)

BENCH:

SHARMA, L.M. (CJ)

YOGESHWAR DAYAL (J)

BHARUCHA S.P. (J)

CITATION:

1994 SCC Supl. (1) 153

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. This appeal arises out of a suit filed by the respondents for a decree for possession of a piece of land described in the plaint. The appellants denied the claim and set up their own title. The trial court disbelieved the case of the plaintiffs and dismissed the suit. On appeal the Additional Civil Judge, Azamgarh, reversed the finding on the question of title but dismissed the suit and, consequently, the appeal on the ground of limitation. He held that the plaintiffs were in possession of the disputed land till July 31, 1948 and were dispossessed by the defendants on August 1, 1948. The suit having been filed in 1961 was, therefore, held to be barred by the rule of limitation. The plaintiffs challenged the decision before the High Court by filing a second appeal which has been allowed by the impugned judgment.

2. The only question which appears to have been agitated before and decided by the High Court was whether the suit had to be dismissed on the ground of limitation. It was contended on behalf of the plaintiffs that a proceeding for 'partition' under the U.P. Land Revenue Act was going on since 1931 and had continued till 1952, when it stood abated by reason of the provisions of the U.P. Zamindari Abolition and Land Reforms Act, 1950 read with the Rules framed thereunder and, for that reason, the period of limitation for the present suit must be held to commence in 1952 and not earlier. The suit having been filed in 1961 must, therefore, be held to have been filed within the period of limitation. Agreeing with the plaintiffs, the High Court held that, in view of the facts and circumstances of the case, the period during which the proceeding under the U.P. Land Revenue Act, 1901 between the parties and the other co- sharers remained pending after 1948 was available for computing the period of limitation applicable to the suit and, accordingly, the suit could not be held to have been filed after the expiry of the period of limitation. The High Court also accepted a second ground urged on behalf of the plaintiffs, based on the provisions of the U.P. Agricultural Tenants (Acquisition of Privileges) and Miscellaneous Provisions Act, 1950.

3. So far as the provisions of the U.P. Agricultural Tenant& (Acquisition of Privileges) and Miscellaneous Provisions Act, 1950 are concerned, they, clearly are not at all attracted to the present case. The application of this Act is confined to cases referred to in the Schedule to it and a perusal of the Schedule does not leave any room for doubt that this Act is not relevant to the case before us. The High Court has not disclosed any basis for relying on this Act and the learned counsel for the plaintiffs has not attempted to support the impugned judgment upon this ground. We, therefore, need not detain ourselves on this point any further.

4. The main question which arises for decision is whether the High Court was right in applying Section 14 of the Limitation Act in favour of the plaintiffs. The learned counsel for the appellants (defendants) has referred to the provisions of the U.P. Land Revenue Act, 1901 and contended that a proceeding for 'partition' under the said Act is wholly irrelevant to a litigation such as this relating to possession of the land and, therefore, Section 14 of the Limitation Act is not available to the plaintiffs. The learned counsel appears to be right. As is clear from the Preamble, the U.P. Land Revenue Act was passed by way of consolidating and amending the law relating to land revenue and the jurisdiction of Revenue Officers in the United Provinces (now Uttar Pradesh). Chapter VII thereof deals with partition and union of mahals. Section 106 defines 'partition' as division of a mahal or portion of a mahal into two or more portions, each consisting of one or more shares. The expression mahal has been defined in Section 4(4) as meaning "any local area held under a separate engagement for the payment of the land revenue". An examination of the provisions of the U.P. Land Revenue Act clearly indicates that its scope and application are confined to proceedings in respect of land revenue and the jurisdiction of the Revenue Officers in this connection, and do not embrace any dispute relating to title or I possession to specific plots of land. The subject-matter of the proceeding under the U.P. Land Revenue Act in the present case which remained pending from 1931 to 1952 was thus entirely different from the dispute in suit relating to the suit land. It will be observed that exclusion of time under Section 14 is available only where the earlier proceeding related to the same matter that is in issue in the suit, and not otherwise. Since we find that the matter in issue in the aforesaid proceeding under the U.P. Land Revenue Act was distinctly different from that in the suit, the High Court was not justified in excluding the period from 1948 to 1951

while computing the period of limitation for the suit.

5. Consequently, the appeal is allowed, the judgment and order of the High Court are set aside and the suit is dismissed. In the facts and circumstances of the case, the parties are directed to bear their own costs throughout.