

Hira Singh and Another Vs Chandan Singh and Others

Court: Allahabad High Court

Date of Decision: May 6, 1932

Acts Referred: Agra Tenancy Act, 1926 " Section 267

Citation: AIR 1932 All 663 : (1932) ILR (All) 877

Hon'ble Judges: Bennet, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Bennet, J.

This is a reference by a learned Munsif u/s 267, Agra Tenancy Act. 3 of 1926, inquiring for a direction of this Court as to

whether the Munsif has jurisdiction to entertain the suit in question. Learned Counsel for defendants drew attention to the fact that one of the three

defendants had died and he desired that the case should be adjourned for proceedings of abatement or substitution of names to be taken by the

Munsif. But we consider that we must first decide the question as to whether the Munsif has jurisdiction to entertain the suit. The plaint asked for a

declaration that the plaintiffs were owners of a pucca well in plot 326 of a certain village and that defendants had no connexion with that well. The

plaintiffs set forth in their plaint that they were the tenants of No. 326. The written statement denied that the plaintiffs were tenants of that number

and alleged that the well had been made by the defendants. The plaint admitted that the defendants were the zamindars of the land in question. We

consider that the case is governed by the provisions of P. 121, Agra Tenancy Act, and that the suit amounts to a suit for a declaration of the right

of the plaintiffs as tenants. Such a suit will cover the question of "the ownership of the well which is situated in No. 326 claimed by the plaintiffs as

their tenancy. The plaintiffs have omitted to ask for a relief in regard to No. 326 merely with the object of making their plaint resemble a plaint in

which the civil Court will have jurisdiction. Ch 7, Agra Tenancy Act, deals with the question of improvements and all questions in regard to

improvements are cognizable by the Revenue Court. Schedule 4 group (d) provides that applications under Ch. 7 in regard to improvements are

triable by Assistant Collectors in charge of subdivisions. Under these circumstances we consider that the Revenue Courts alone has jurisdiction,

and we return this reference to the learned Munsif who should return the plaint to the plaintiffs for filing in the proper Court. The plaintiffs will pay

the costs of this reference and the costs of the Court below.