

## Damodar Prasad and Others Vs Md. Kashmir Ali and Others

**Court:** Jharkhand High Court

**Date of Decision:** Nov. 17, 2011

**Acts Referred:** Chotanagpur Tenancy Act, 1908 " Section 87

**Citation:** (2012) 4 JCR 155

**Hon'ble Judges:** Narendra Nath Tiwari, J

**Bench:** Single Bench

**Advocate:** Lalit Kumar Lal, for the Appellant; Kundan Kr. Ambastha, for the Respondent

**Final Decision:** Dismissed

### Judgement

@JUDGMENTTAG-ORDER

1. These appeals are against the common judgment and decree passed in Title Appeal No. 04 of 2005, Title Appeal No. 05 of 2005 and Title

Appeal No. 06 of 2005. Since the facts and the law involved in the said appeals were similar, learned Court below has decided the said appeals

by a common judgment. In view of the above, all the said second appeals have been taken up and heard together, as prayed for by learned

counsel for the appellants and are being disposed of by this order.

2. These second appeals arise out of Suits, filed under the provisions of Section 87 of the Chotonagpur Tenancy Act in the Court of Settlement

Officer, Latehar being Revenue Suit No. 1032/1990 (Md. Kashim Ali & Ors. v. Sazad Hussain & Ors.), Revenue Suit No. 1035/1990 (Md.

Kashim Ali & Ors. v. Banwari Singh & Ors.), and Revenue Suit No. 1469/1990 (Damodar Prasad & Ors. v. Md. Nijam & Ors.).

3. In the said suits the plaintiffs had challenged the entries made in records of rights in respect of the suit land appertaining to C.S. Khata No. 4 of

village Manika, P.S. Manika, District Latehar.

4. Learned Assistant Settlement Officer decreed the Revenue Suit No. 1032/1990 and Revenue Suit No. 1035/1990 and dismissed the Revenue

Suit No. 1469/1990 filed by Damodar Prasad & Ors.

5. The said judgments and decrees were challenged in appeal in the Court of District Judge, Latehar, registered as Title Appeal No. 04/2005, Title

Appeal No. 05 of 2005 and Title Appeal No. 06 of 2005.

6. Learned District Judge, Latehar heard the parties and considered the facts and evidences on record and recorded his finding holding that the

point in issue in the instant suit was involved in the earlier Title Suit No. 06/1991 which was decided long back. Appeal filed being Title Appeal

No. 04/1996 was also disposed of. Against the said judgment and decree of learned lower appellate Court, Second Appeal was filed being S.A.

No. 134/2002 and the same is still pending. Learned lower appellate Court further held that judgment and decree of the Civil Court is binding on

the revenue Court, which is a Court of limited jurisdiction. The right, title has already been decided by the competent Court and in that view the

judgment has been passed by the trial Court in the said revenue suits. There was no error in the judgment of Trial Court. Learned lower appellate

Court, then, dismissed the appeal.

7. In these second appeals the said judgment and decree of learned lower appellate Court has been challenged on the ground that since the second

appeal is still pending, the judgment and decree passed by the competent Civil Court is not final and the learned Courts below have committed

error in taking notice thereof and deciding the case on the basis of the said judgment and decree of the Civil Court.

8. Mr. Lalit Kumar Lal, appearing on behalf of the appellants, submitted that so long second appeal against the judgment and decree of the first

appellate Court is pending, the said judgment and decree is not binding on the parties and learned lower appellate Court has erroneously decided

the case of the parties in the light of the judgment and decree of the said Civil Court which is not final. Learned counsel submitted that if the second

appeal is allowed and decided in favour of the appellants, it would cause complication. In view thereof, the appellate Court should not have said

that the decree of the first appellate Court is binding on the revenue Courts and the claim of the parties must be decided in view of the said decree.

9. I have heard learned counsel for the appellants and perused the judgment and decree of learned Courts below.

10. It is an admitted fact that for the same land regular title suit was filed in the competent Court of Civil jurisdiction and the same was affirmed by

the first appellate Court. According to the appellants, second appeal has been filed against the said judgment and decree of the appellate Court

and the same is pending.

11. It is a settled principle of law that mere filing of an appeal does not suspend the effect of the judgment and decree challenged in the Court. So

long the judgment and decree of the competent Court of Civil jurisdiction stands, the same is binding on the revenue Courts and the learned Court

below have rightly followed the judgment and decree of the competent Civil Court.

12. Since the revenue Court is of limited jurisdiction, it has no authority to take any contrary view or decide the case against the terms of the

decree of the Civil Court. Learned revenue Court as well as District Judge have rightly held that the judgment and decree of the Civil Court

deciding right, title and interest of the parties is binding on them.

13. The impugned judgment and decree is thoroughly considered, sound and well reasoned. I find no error or illegality in the impugned judgment

and decree giving rise to any substantial question of law. These appeals are, accordingly, dismissed. Appeals dismissed.