

(1993) 07 SC CK 0063

In the Supreme Court Of India

Case No : Civil Appeal No. 993 Of 1973

Aitu Bhotra and Others

APPELLANT

Vs

Narsinga Madala (Dead) by Lrs. and Others

RESPONDENT

Date of Decision : 20-07-1993

Acts Referred:

Citation : (1995) 3 SCC 664 Supp

Hon'ble Judges : Yogeshwar Dayal, J; M. M. Punchhi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The defence on which the appellants kept fighting in the courts below is that the civil courts had no jurisdiction to entertain the suit of the respondents. The provisions to militate against the jurisdiction of the civil courts relied upon by the appellants were Ss. (3 of Section 2 of Orissa Act V of 1955 and Section 9(2 of the said Act. Ss. (3 of Section 2 provides that :

(3 Nothing in this Act shall be deemed to confer any additional right in land on any tenant and on expiry of this Act such tenant shall possess the same right which he would have possessed if this Act had not been passed." The proviso to Section 9(2 of the Act provides that :

"Where the tenant has any permanent and heritable rights of cultivation in any land the steps to be taken for eviction of such tenant shall be in accordance with law or the custom or usage having the force of law applicable to such tenancy."

2. Orissa Act V of 1955 was a temporary measure and did not remain on the statute book for long. The finding of the High court was that for the eviction of the tenant having permanent and heritable rights the provisions of Orissa Act V of 1955 had no application. Learned counsel for the appellants has not been able to dislodge that conclusion or even to suggest to us from the reading of the aforesaid two provisions as to how the jurisdiction of the civil court is ousted. The judgment under appeal thus appears to us to be well based requiring no

interference. Accordingly, the appeal is dismissed with no order as to costs.