

**(1924) 01 AHC CK 0020**  
**In the Allahabad High Court**

Bhup Narain Rai and Others

APPELLANT

Vs

Sri Thakur Radha Krishna and Others

RESPONDENT

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**Date of Decision :** 21-01-1924

**Acts Referred:**

**Citation :** AIR 1925 All 193

**Hon'ble Judges :** Stuart, J

**Bench :** Division Bench

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### **Judgement**

Stuart, J.—These nine connected appeals arise out of nine suits for arrears of rent brought against the appellants. It appears that as far back as 1868 certain zamindars in what was known as the taluka Birpur in the Ghazipur district agreed that the predecessors-in-interest of the present appellants should cultivate 96 bighas 19 biswas in the taluka at a certain rent. At the next settlement the area and the rent were increased. As time has gone on the fields held in tenure by these persons have been distributed amongst no less than nine villages and the fields in each village have been amalgamated into a separate area held in occupancy tenure. These appeals arise out of suits for arrears of rent in respect of these nine areas. The main point pressed in appeal by the learned Counsel for the defendants-appellants is that the suits should be dismissed in toto because nine suits have been brought instead of one. His argument is that all these nine areas are one holding and that under the law one suit should have been brought for the arrears of rents of one holding. The first point to consider is whether these areas are one holding or nine holdings. Now there might be some force in an argument to the effect that originally 96 bighas and 19 biswas were one holding because the whole area at that time consisted of parcels of land held under one tenure and one engagement, and it might be argued that when the area increased at the time of settlement it still remained one holding. But once the nine villages were formed (whenever they were formed) it seems to me impossible to hold that the area held in each village under occupancy rights was not a separate occupancy holding. I do not understand how there could be one occupancy holding consisting of fields which lay in nine different villages and

nothing could be worse from the point of view of the appellants than deciding in their favour upon this point for, if it were held that all this land was included in one holding a decree for arrears of rent in respect of an occupancy holding in one-village would suffice to eject them from all nine villages under the provisions of Section 57, Local Act II of 1901. It certainly is true that in the past they were sued in single cases in respect of all the areas and that the areas were treated as one holding. But I think the Courts in the past were wrong, and that the Courts which decided these present cases have taken the right view of the subject. I rely in support of these views on the decision in Jagannath Prasad v. Tori (1906) 29 All. 18. The facts there were certainly not the same as here; for in that case there was not the slightest doubt as to the separation of the holdings and here the point at any rate is arguable. But the argument derived from the provisions of Section 57 is the same here as it was there. For the above reasons, I consider that nine separate suits were rightly instituted.

2. I now come to the last point. There are a large number of defendants and some were impleaded so late in the day that the recovery of a small portion of the arrears against them was time-barred. The Courts, below have awarded this amount against the remainder on the ground that they shared in the cultivation I accept his view as correct.

3. I accordingly dismiss these nine appeals with costs on the higher scale.