

(1915) 02 BOM CK 0002
In the Bombay High Court
Case No : Second Appeal No. 557 of 1913

Chintaman Ganesh Oka

APPELLANT

Vs

The Secretary of State

RESPONDENT

Date of Decision : 25-02-1915

Acts Referred:

Citation : AIR 1915 Bom 139(2) : (1915) 17 BOMLR 682 : 30 Ind. Cas. 548

Hon'ble Judges : Shah, J;Heaton, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Heaton, J.—I think that in this case the appellant who is the plaintiff has been very erroneously instructed regarding the manner in which, if indeed he has any genuine grievance, he should present that grievance before the Court. He is the Inamdar of a village and in virtue of the grant to his ancestor he says, and for the purposes of this case we accept it, that there have become vested in him all the rights of Government subject to this only that the rights of the Kadim Hakdars and Inamdars are not affected. Now it appears that these Hakdars receive certain allowances which are paid out of the land revenue collected in the village, before the surplus is paid to the Inamdar. By surplus I mean what is left over after paying so much as is due for Government dues for village expenses and so forth.

2. The plaintiff was anxious to have the payment of these dues to the Hakdars in his own hands, and he brought this suit mainly for a declaration that he was entitled to pay these moneys direct. He maintained that in the past he always had paid them directly, and the Assistant Judge of Poona, who tried the case, states that it is not denied that up to 1897 the Inamdar paid these allowances direct to the recipients. That is an exceedingly misleading way of stating the facts, as is brought out in the judgment in appeal of the District Judge. It appears that in fact the payments were made by the village officers. But the appellant says the payments were made by them as his servants or agents.

Seeing, however, that the village officers are appointed by Government, that they act under the orders of Government and that there is absolutely nothing in the case to show that they were not making these payments by the direction of Government, it is very difficult to understand how the plaintiff can claim that the village officers acted as his servants or agents in the matter. I think, therefore, agreeing with the District Judge, that the manner of payment in the past gives no support to the plaintiff's contention that he is entitled to pay direct.

3. Then an argument was advanced that the Sanad, the evidence of the grant by the Peshwa considerably more than a century ago, lends support to the plaintiff's claim. As a matter of fact it does not do so, for, it secures, in express terms, the rights of these Hakdars. One of those rights, no doubt, was that they were privileged, as before, to deal directly with the Government. The plaintiff now seeks to deprive them of this right, and the circumstances of the case show that it is a valuable right.

4. I think, therefore, that the decision of the lower Court is correct and I would dismiss this appeal with costs.

Shah, J.

5. I am of the same opinion.