(1996) 02 SC CK 0229

In the Supreme Court Of India

Case No : Civil Appeal No. 3974 of 1984

Dattatraya Ganesh Kulkarni — APPELLANT

Vs

Appa Tukaram Mude and Others — RESPONDENT

Date of Decision : 20-02-1996

Acts Referred:

Bombay Tenancy and Agricultural Lands Act, 1948 — Section 88C

Citation : (1998) 8 SCC 717

Hon'ble Judges : S. C. Sen, J;M. M. Punchhi, J

Bench : Division Bench

Final Decision : dismissed

Judgement

1. We have heard learned counsel for both sides in this appeal. On the facts of it, the appellant cannot avail of the benefit of Section 88-C of the Bombay Tenancy and Agricultural Lands Act, 1948. If the land belonged to the joint Hindu family, as has been found by the High Court, the holding was far above the economic holding as defined in the Act. In that state, the appellant having income from joint Hindu family property, and clubbing of it with his personal income in going above Rs 1500 per month is a factor which could have no relevance. If it is treated to have been allotted to him during partition and then tenancy created of a size of an economic holding, then his other income would assume relevance for the purpose of computation. The finding recorded by the High Court is that on the appointed day, the land had not been partitioned and continued to be joint Hindu property. The argument that a suit was pending on that day, reflective of the fact that the joint Hindu family stood already split and the aim of the suit was merely to fructify that split is also of no avail to the appellant in view of two decisions of the Bombay High Court in Jainabai Haji Ramjan Shaikh Vs. Bakaji Bhau Mandalik, and Anna Balgonda Patil and Others Vs. Vasant Raghunath Kulkarni and Others, . Those judgments are in the nature of stare decisis insofar as the interpretation of the local legislation on the subject is concerned. These having remained in the field for decades would not warrant us now to be giving a

different interpretation as sought by the learned counsel for the appellant. The appeal therefore fails and is hereby dismissed. No costs.