

(1912) 10 AHC CK 0004
In the Allahabad High Court

Hirdey Narain and Another

APPELLANT

Vs

M.J. Powell and Another

RESPONDENT

Date of Decision : 30-10-1912

Acts Referred:

Citation : (1913) ILR (All) 9 : 17 Ind. Cas. 672

Hon'ble Judges : Henry Griffin, J; Chamier, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Henry Griffin and Chamier, JJ.—This case was remitted to the District Judge in order that he might ascertain the respective values of the interests of the appellants and Mrs. Powell in the land in question for which the Superintendent of Dehra Dun has awarded under the Land Acquisition Act a sum of Rs. 7,768-8-0. The learned Judge rightly, as we think, set himself to ascertain what were the respective rights of the appellants and Mrs. Powell in the land. He came to the conclusion that Mrs. Powell was what he calls an abadi tenant, having a right to build on the land and to transfer it, that the interest of the appellant in the land was worth no more than Rs. 1,060, and that the balance of the sum awarded by the Superintendent of Dehra Dun, namely, Rs. 6,708-8-0, should be given to Mrs. Powell. But in case this Court did not agree with the view that Mrs. Powell was an abadi tenant, he went on to ascertain the values of the respective rights of the parties in the case on the assumption that Mrs. Powell was an occupancy tenant of the land. He found that the annual value of Mrs. Powell's interest as an occupancy tenant was Rs. 22, and the, annual value of the appellants' interests as landlords was Rs. 11. He then suggested that Mrs. Powell should be given a sum of Rs. 352, that is, sixteen years' purchase of the annual value of her interests and that the balance should be given to the appellants. We are unable to accept either of these conclusions in their entirety. Mrs. Powell, or rather the person through whom she claims, is recorded as an occupancy tenant of the land. There is really no evidence as to the circumstances in which, or even

as to the time when, Mrs. Powell's predecessors first obtained the land. Both sides have indulged in much speculation as to what their respective rights must be. One fact stands out clearly, namely, that for the last fifty or sixty years the land has been used for agricultural purposes, and in the absence of definite evidence as to the respective rights of the parties in the land, we think that the sum awarded should be divided between them in proportion to the values of the interests hitherto enjoyed by them, after making due allowance for the possibility of the rent being enhanced. We accept the finding of the District Judge that the annual value of Mrs. Powell's interest in the land is Rs. 22, and that the annual value of the appellant's interests is Rs. 11. But it seems to us that the whole sum awarded by the Superintendent should be divided amongst them in proportion to the value of their interests, and that there is no justification for what the learned Judge has done, namely, give Mrs. Powell sixteen times the value of her interest and give the appellants the whole of the balance. It would be as wrong in our opinion to give the appellants sixteen times the value of their interests in the land and to give Mrs. Powell the whole of the balance. The result is that we hold that the sum in question should be divided in the proportions of 1/3rd and 2/3rds, 1/3rd going to the appellants and 2/3rds to Mrs. Powell, that is to say, Rs. 2,590 to the appellants and Rs. 5,178-8-0, to Mrs. Powell. The decree of the court below is modified accordingly.