
(1922) 08 PAT CK 0008
In the Patna High Court

Musammat Adayabati

APPELLANT

Vs

Janardan Thakur

RESPONDENT

Date of Decision : 01-08-1922

Acts Referred:

Bengal Tenancy Act, 1885 — Section 60, 72

Citation : AIR 1922 Patna 607 : 68 Ind. Cas. 288

Hon'ble Judges : Das, J; Coutts, J

Bench : Division Bench

Judgement

Coutts, J.—This appeal arises out of a suit for rent which was brought by the registered proprietor. The defendant pleaded payment to the transferee from the proprietor. The suit was dismissed in the Court of first instance and on appeal this decision has been upheld, it having been found by the learned District Judge that although the plaintiff is the registered proprietor her rights have been transferred to one Madho Sahu and that the defendant executed a kobuliyat in favour of Madho Sahu in 1995 and has since then been paying rent to him. In these circumstances the learned District Judge has found, that Section 60 of the Bengal Tenancy Act has no application.

2. I am unable to understand how this could be so. By Section 60 it is enacted that, where rent is due to the proprietor, the receipt of the person registered under the Land Registration Act shall be a sufficient discharge for the rent and that the person liable for the rent shall not be entitled to plead, in defence to a claim by the person so registered, that the rent is due to any third person. In the present instance the plaintiff is the person registered under the Land Registration Act, so that the case comes completely within Section 60 of the Bengal Tenancy Act. It is hardly necessary to quote decisions in support of this view, but I may refer to the cases of Hardayal Mahton V. Wazir Mahton 41 Ind. Cas. 97 : 3 PLW 351 and Rira Singh v. Lola Keshu Lal 52 Ind. Cas. 523.

3. It has been argued that Section 72 of the Act modifies Section 60 and protects the defendant. Section 72, however, applies to a case in which a transferee

claims rent and it protects the tenant to whom the transferee has given notice of the transfer and has nothing to do with the case now before us. Moreover, there is nothing to show that the transferee has given notice to the tenant of the transfer. In my opinion, the decision of the Courts below is wrong and must be set aside. I would accordingly set aside the decision and decree the plaintiff's suit. In the circumstances of the case, I would pass no order as to costs.

Das, J.

4. I agree.