
(1933) 07 AHC CK 0017
In the Allahabad High Court

Musammat Hasina Begam and Others	APPELLANT
Vs	
Munshi Abdul Hafiz	RESPONDENT

Date of Decision : 26-07-1933

Acts Referred:

Agra Tenancy Act, 1926 — Section 226, 227

Citation : 146 Ind. Cas. 81

Hon'ble Judges : Rachhpal Singh, J; Niamatullah, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. This purports to be a first appeal from order. We, however, think that it is an appeal from a "decree" as defined in Section 3 (14) of the Agra Tenancy Act, according to which "decree" means "any order which, so far as the Revenue Court is concerned, finally disposes of a suit." It will be observed that this definition gives a considerably enlarged meaning to "decree" as compared with "decree" defined in Section 2 (2), Civil Procedure Code, according to which that expression means

the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in suit....

The essential difference between the two appears to be that, according to the definition contained in the Agra Tenancy Act, an order may amount to a decree, though it does not adjudicate upon the rights of the parties but disposes of the suit on a preliminary ground, provided the decision finally disposes of the suit, so far as the Revenue Court is concerned. In the case before us the learned Subordinate Judge held, in view of a certain family arrangement relied on before him, that no suit for profits could lie in a Revenue Court u/s 226 or 227 of the Agra Tenancy Act. Accordingly he ordered the plaint to be returned for presentation to the proper court, presumably the Civil Court, which alone,

according to the view of the learned District Judge, could enforce the family arrangement set up before him. The order of the learned District Judge finally disposed of the suit so far the Revenue Court was concerned, as no further proceedings could be taken in that court after that order. We hold that the order of the learned District Judge is a "decree" within the meaning of Section 3(14) of the Agra Tenancy Act. The present appeal should be considered to be one brought u/s 246, of the Agra Tenancy Act, which gives a right of second appeal to the High Court from every "decree" of a District Judge. A court-fee of Rs. 3 was paid on the memorandum of appeal. The subject-matter of the appeal before us is valued at Rs. 481-11-6. Ad valorem court-fee at that amount comes to Rs. 44.

2. The appellant must, therefore, make good the deficiency of Rs. 41 within, two weeks.