
(1939) 08 CAL CK 0006
In the Calcutta High Court

Raja Sarat Chandra Roy Chaudhury Bahadur	APPELLANT
Vs	
Arjun Mandal	RESPONDENT

Date of Decision : 03-08-1939

Acts Referred:

Bengal Tenancy Act, 1885 — Section 145, 187

Citation : AIR 1939 Cal 742

Hon'ble Judges : Henderson, J

Bench : Division Bench

Judgement

Henderson, J.—This is a Rule calling on the opposite party to show cause why the order of the Munsif rejecting the petitioner's petition should not be set aside. As the opposite party has managed to get the suit stayed by an application to a Debt Settlement Board, he is no longer taking any interest in the matter and has not appeared. Mr. Ghosh, however, argued the case against the rule as amious curise in order to put forward the point of view of the legal profession. The petitioner is a zamindar who has instituted several tent suits. His contention was that his gomasta, who was an authorized agent within the meaning of Section 145, Ben. Ten. Act, was entitled to conduct his cases in Court. The reason he put forward was that he wished to minimize the costs of litigation, and he proposed to follow this procedure in his conduct of uncontested suits. The learned Munsif pointed out correctly, that it does not make the slightest difference whether the suit is con tested or not. If he is entitled to conduct his case in this way in uncontested suits, he is equally entitled to do so in contested suits. Dr. Pal has appeared in support of the Rule, and puts forward the case, that there is something peculiar about rent suits which will entitle the parties, perhaps I had better say plaintiffs, to conduct their cases in what would otherwise be a highly irregular manner. I need not stress the disastrous effects which any such thing would have on the administration of justice.

2. The first Section relied upon is Section 187, Ben. Ten. Act. Under that Section any appearance in Court required or otherwise authorized by the Act to be made

by a landlord, may be made by an agent empowered in a particular manner. This provision is obviously of no help to the petitioner. It is quite true that, if an authorized agent appears, the suit cannot be dismissed for default. It was however laid down in the clearest terms in *Harchand Ray Gobordhon Das v. B.N. Ry. Co* 3 AIR (1916) Cal. 181 that a recognized agent has no right of audience. It is perfectly true that that decision is concerned with a case in a Small Cause Court. But there is nothing in the Bengal Tenancy Act which lays down that agents have a right of audience or a right to plead. The word "appearance" is far too restricted for such a meaning to be attributed to it. I agree with the view taken by the learned Munsif on this point. This, however, would not be sufficient to dispose of the petitioner's claim. The right conferred by Section 187 is not an unrestricted right, and it would always be open to the Court to direct the plaintiff's appearance in person. The other Section is Section 145. All that this Section does is to give slightly wider powers to naibs and gomastas than are given to recognized agents under the Code of Civil Procedure. For example, they may verify pleadings without obtaining the permission of the Court. They certainly cannot plead and conduct cases. The Rule is discharged.