(1960) 06 CAL CK 0030

In the Calcutta High Court

Case No : Appeal from Original Decree No. 64 of 1953

Ram Coomar Bangur APPELLANT

Vs

Bidyut Kumar Ghosh RESPONDENT

Date of Decision : 20-06-1960

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 20 Rule 18, 115, 54
Estates Partition Act, 1897 — Section 104, 107, 112, 112(1), 112(2)
Government of India Act, 1935 — Section 226
Income Tax Act, 1922 — Section 4, 4(1), 45, 67

Citation : (1961) 2 ILR (Cal) 50

Hon'ble Judges : Renupada Mukherjee, J;Banerjee, J

Bench : Division Bench

Advocate : Atul Chandra Gupta and Bijan Behary Das Gupta, for the Appellant;Profulla Kumar Roy, Chandra Narayan Laik and Prasur Chandra Ghosh, for the Respondent

Final Decision : Dismissed

Judgement

Renupada Mukherjee, J.—This appeal arises out of a suit for partition. The subject-matter of partition is only one item of property, namely, Touzi No. 40 of the Collectorate of 24-Parganas. Admittedly, Appellant Ram Coomar Bangur, who was the sole Plaintiff in the Trial Court, had two-thirds share in this touzi and the remaining one-third share belonged to the Defendants in the Trial Court. The Plaintiff prayed for partition of this Touzi under the provisions of Section 54 and Order 20, Rule 18 of the CPC on a declaration that the partition effected under the provisions of the Estates Partition Act by revenue authorities was illegal and ultra vires.

2. The suit was contested by the Defendants. The only material defence with which we are concerned at present is that partition was effected according to the provisions of the Estates Partition Act and it is valid and binding upon all the proprietors and is not liable to be questioned in a Civil Court. This defence was given effect to by the Court below and the suit of the Plaintiff was dismissed. So

the Plaintiff has preferred this appear.

3. The only point requiring our decision in this appeal is: was the partition effected by the revenue authorities valid and funding upon the proprietors and is a suit for partition maintainable in the Civil Court".

4. The validity of the partition effected by the revenue authorities has been challenged before us in two ways. It is an admitted fact that one Bimal Chandra Ghosh for self and as trustee to the estate of one Benoy Krishna Ghosh, and another person, Sachindra." Nath Hoy, trustee to the estate of Benoy Krishna Ghosh instituted a proceeding under the Estates Partition Act on January 24, 1944, for partition of Touzi No. 40 alleging that they had one-third share in Touzi No. 40. The application filed by them was, marked Ext. 2 in the Trial Court. The order-sheet of the case, which was marked Ext. 3 in the Trial Court, would show that notices were served upon the Appellant, who was the owner of the remaining two-thirds share of the Touzi and proceedings were drawn up by the Partition Deputy Collector on April 27, 1944. Thereafter the case went through various stages before the Partition Officer who finally signed the allotment papers on November 1, 1945, as would be evidenced by order No. 32 of that date. Thereafter notice was issued u/s 58(1) of the Estates Partition Act. This notice having been served on the Appellant and he having failed to appear before the Collector, the latter approved the partition and forwarded the papers to the Commissioner for confirmation. This was done on November 21, 1945. The date has been wrongly printed as November 20, 1945 in the Paper-book. The validity of the proceeding up to this stage was not challenged on behalf of the Appellant in this Court although in the Court below the Appellant challenged the service of some of the notices said to have been served upon him before the Collector approved the partition on November 21, 1945.

5. On January 21, 1946, an application was filed before the Collector for setting aside the order passed on November 21, 1945 and for passing an order for starting de novo proceeding for partition (vide application Ext. 1). This application was rejected on February 25, 1946 [vide Ext. 3(b)]. The validity of this order of the Collector was also not challenged before us.

6. After the papers were forwarded by the Collector to the Commissioner for confirmation of the proceeding, two applications were filed on March 25, 1946 before the Commissioner. These applications were marked Exts. 1(a) and 1(b) in the Trial Court. Both these applications were rejected by the Commissioner on October 8, 1946, as being time-barred [vide orders of the Commissioner marked Ext. 3(d) and Ext. 3(e) in the Trial Court]. The validity of these two orders of the Commissioner were questioned before us and I shall have to refer to this matter later on. After having rejected the two applications of the Appellant mentioned above, the Commissioner confirmed the partition proceeding.

7. After the Commissioner had confirmed the partition proceeding, the present Appellant filed two, applications before the Board of Revenue, one by way of

appeal and another by way of revision on November 18, 1946. These two applications were marked Ext. 1(c) and Ext. 1(d) in the Trial Court. Both these applications were rejected by the learned Member, Board of Revenue, on May 1, 1947. Thereupon the Appellant filed two applications for review on June 3, 1947. These two applications were rejected on July 30, 1947 [vide order Ext. 3(h)]. The validity of the orders of the Board of Revenue rejecting the appeal and the revisional application of the Appellant as well as the applications for review has also been questioned in this appeal.

8. Dr. Gupta appearing on behalf of the Appellant submitted as a point of law that the orders passed by the Commissioner and the Board of Revenue mentioned above, deprived the Appellant of the opportunity of a hearing of the cases on the merits and so they amounted to a fundamental irregularity in the procedure which vitiated the entire proceeding.

9. Mr. Roy, who appeared on behalf of the Respondents contended on the other hand, that the Commissioner had jurisdiction to refuse a hearing on the ground that the applications presented before him were barred by limitation and the Board of Revenue had also jurisdiction to refuse a hearing on the ground that the Collector''s orders passed u/s 58 of the Estates Partition Act were not liable to the questioned. Mr. Roy further submitted even if it be assumed that the orders made by the Commissioner and the Member, Board of Revenue, were erroneous in law, such error does not amount to such infringement of fundamental procedure as would invalidate the entire proceeding.

10. A detailed argument was submitted by the learned Advocates for both parties on the question whether any violation of essential and fundamental procedure was committed by the Commissioner and the Member, Board of Revenue, by their refusal to hear the appeals and the revisional applications on the assumption that the refusal was due to a wrong interpretation of some of the provisions of the Estates Partition Act.

11. Dr. Gupta contended on behalf of the Appellant that by reason of the refusal of the above tribunals to hear the appeals and the revisional applications on the merits the Appellant was deprived of his statutory right of placing the appeals and objections before them and this constituted a fundamental irregularity in the proceeding which prevented the decision of the revenue authorities from becoming, final. In support of this contention Dr. Gupta referred us to a case in AIR 1924 175 (Privy Council) . It has been held in that case that a fundamental irregularity in the proceeding would prevent the decision of a Board of Revenue from becoming final in a suitable case. On the facts of the case, however, it was held that there was no fundamental irregularity in the proceeding. Dr. Gupta also referred us to another decision of the Privy Council in Secretary of State v. Mask and Co. (1940) L.R. 67 IndAp 222, where the same principles have been reiterated at page 236 of the report in the following terms:

It is settled law that the exclusion of the jurisdiction of the Civil Courts is not to be readily inferred, but that such exclusion must either be explicitly expressed or clearly implied. It is also well settled that even if jurisdiction is so excluded, the Civil Courts have jurisdiction to examine into cases where the provisions of the Act have not been complied with, or the statutory tribunals has not acted in conformity with the fundamental principles of judicial procedure.

12. Mr. Roy contended, on the other hand, that the Commissioner and the Board of Revenue had the jurisdiction to decide the issues of preliminary bar raised before them and even if it be assumed that the decisions made by them were erroneous in law and even though the effect of such decisions was to deprive the Appellant of the opportunity of placing his appeals and objections before the tribunals, it cannot be said that there was any fundamental irregularity in the proceeding or any lack of jurisdiction en the part of the tribunals. In support of this contention Mr. Roy referred us to a decision of the Supreme Court in Rai Brij Raj Krishna v. Messrs. S.K. Show [1951] S.C.R. 98. He also referred us to another case of the Supreme Court in Razia Begum v. Sahebzadi Anwar Begum [1959] (1) S.C.A. 46 directing our attention to some quotations from a judgment of Yaradachariar, J. These quotations occur at pages 56 and 57 of the report and they are to the following effect:

In my opinion, there is no case here of a defect of jurisdiction in the sense in which it is said that consent cannot cure a defect of jurisdiction. It is true that in Moser v. Marsderi (I) (Supra), Lindley, L. J. observed that the question was not one of "discretion but of jurisdiction". But as the antithesis shows, the learned L.J. apparently bad in mind the difference between the decision of the question of joinder on the interpretation of a rule of law and a direction given by the lower Court in the exercise of its discretion, because in the latter case the Court of Appeal would generally be reluctant to interfere. It may even be regarded as a case of excess of jurisdiction within the meaning of Section 115 of the CPC Code, but that will not make the order void in the sense that it may be ignored or treated as if it had never been passed.

In my judgment the two Supreme Court decisions referred to by Mr. Roy have got no application to the point under consideration, because those two cases deal with questions of jurisdiction and in the present case we are concerned with the question of fundamental irregularity in the procedure of a non-judicial tribunal. It is true that no irregularity was committed by the Commissioner or by the Board of Revenue in deciding the preliminary issues against the Appellant, but the adverse effect of the decisions was to shut out the Appellant''s appeals and revisional applications altogether from hearing. This, in my judgment, would constitute a fundamental irregularity in the procedure if it is found that the orders were wrong. This view gains support from the Privy Council case in (1949) L.R. 76 I.A. 131 (Privy Council) . It has been held in that case that Although error in a decision of a subordinate court does not by itself involve that the subordinate court has acted illegally or with material irregularity so as to justify interference by the High Court, in revision under Sub-section (c) of Section 115 of the Code of Civil Procedure, nevertheless, if the erroneous decision results in the subordinate Court exercising a jurisdiction not vested in it by law, or failing to exercise a jurisdiction so vested, a case for revision arises under Sub-section (a) or Sub-section (b) of Section 115 of the Code, and Sub-section (c) can be ignored.

13. It has also been held in a case of our High Court reported in Mahabunnessa Bibi v. Secretary of State for India ILR [1925] Cal. 561 : AIR Cal. 1064 that when a statute lays down a specific rule as to the manner in which an enquiry is to be held and jurisdiction to be exercised and such rules have not been strictly observed, an enquiry held by a superior authority cannot be taken to be a proper substitute for the procedure laid down by law. The following observation occurring at page 567 of the report is also relevant for my consideration:

In the present ease we must hold that it has been established that there was such essential and fundamental violation of statutory requirements as would give ground for quashing the proceedings in a Court of law.

14. In my opinion the essential and fundamental violation of a statutory requirement would certainly include a wrong decision on preliminary questions like limitation and similar preliminary obstacles which the tribunals are bound to decide correctly and accordingly to law.

15. In the above connection Mr. Roy drew our attention to a case in Raleigh Investment Company Limited v. Governor-General in Council (1947) L.R. 74 IndAp 50 and submitted that their Lordships of the Privy Council refused to interfere with the assessment made by income tax authorities although such assessment was made by taking into account an ultra vires provision of the income tax Act. In my opinion this decision does not support Mr. Roy in any way, because in that case the income tax authorities, had made the assessment under the income tax Act as it stood on the date of the assessment and in the opinion of their Lordships of the Judicial Committee it was immaterial whether the assessment had been made by following same ultra vires provisions of the Act. The question whether those provisions of the Act, which had been challenged as ultra vires, were really so was immaterial in the opinion of their Lordships of the Judicial Committee.

16. On an examination of the authorities cited by both parties, I am of opinion that the Civil Court has got the right to interfere if it finds that a tribunal has acted in violation of the fundamental procedure prescribed in a Statute and in the present case I would certainly be justified in interfering with the decision of the revenue authorities if I find that any breach was committed by the revenue authorities in observing the fundamental procedure.

17. I am now brought back to the question whether the Commissioner and the Board of Revenue rejected the applications of the Appellant illegally or without justification. I shall first consider the impugned orders of the Commissioner and then the orders of the Board of Revenue.

18. I have already pointed out that the Commissioner rejected the two applications of the Appellant filed on March 25, 1946, on the ground that they were time-barred. The Commissioner passed this order on October 8, 1946, separately on the two applications [vide Exts. 3(d) and 3(e)]. The material portion of the Commissioner''s order runs in the following terms:

Under Section 112(2) read with Sections 90 and 61 the time limited for filing the objection was 30 days from the date of the service of the notice u/s 61 of the Estates Partition Act.

19. The objection petition before me is, dated 25-3-46. The petition is therefore time-barred and cannot be entertained.

20. Dr. Gupta submitted before us on behalf of the Appellant that this order of the Commissioner is erroneous in law and so it constitutes a fundamental irregularity in the procedure. He submitted that the applications were no doubt made more than 30 days from the date of service of notice upon the Appellant u/s 61 of the Estates Partition Act, but he contended that Section 61 has no application to the applications filed by the Appellant which were in the nature of objections u/s 112(2). Dr. Gupta submitted that the Commissioner is bound to admit such objections if they are made when the Commissioner proceeds to consider a partition u/s 90 or Section 91 of the abovementioned Act.

21. I have carefully examined this contention of Dr. Gupta. In my opinion the contention is without any substance. Section 61 of the Act in question is relevant for my consideration. It runs in the following terms:

61. When a partition has been approved by the Collector, or when he has made a new partition, and after the tender of extracts and the publication of notification as provided in Section 59, the Collector?

shall cause a notice to be served on each of the recorded proprietors, stating that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector, for transmission to the Commissioner, within thirty days from the date of the service of the said notice:

and shall, after the issue of such notice, forward to the Commissioner all papers relating to the partition.

22. It provides a period of thirty days from the date of service of notice under this section as the period of limitation for filing any a,ppeals or objections from the order of the Collector, who submits the partition papers for confirmation by the Commissioner after giving his own approval u/s 58 of the Act. The period of 30 days has been fixed as the time limit for filing of appeals and objections without any limitation. Why the two words "appeals" and "objections" are separately used in this section was a matter for some discussion before us. Learned Advocates for neither party could enlighten me on this matter. Personally I think that the word "appeals" has been used in a wider or larger

sense and the word "objections" has been used in a narrower sense and probably this word is meant to apply to cases where a ''party does not challenge the partition papers in their entirety, but has got only some limited objections. Be that as it may, I am of opinion that the period for filing appeals and objections in this section applies universally to all appeals and objections without any exception.

23. Referring back to Sub-section (2) of Section 112 of the Estates Partition Act, I find that an Appellant or objector has been empowered under that Sub-section to place his objections before the Commissioner when he proceeds to consider a partition u/s 90 or Section 91. Sub-section (2) must be read in the context of Sub-section (1) of Section 112. That Sub-section provides for filing of appeals against some specific orders made by the Collector in a partition proceeding. Sub-section (2) refers to "objections to any other orders "passed by the Collector". The only reasonable interpretation of Sub-section (2) of Section 112 is that a party who has already filed an appeal or objection u/s 61 of the Estates Partition Act can also object to any other order passed by the Collector in the proceeding when his appeal is heard by the Commissioner. If he has no appeal on the record, he cannot take any objection before the Commissioner as contemplated in Sub-section (2) of Section 112 of the Estates Partition Act. In my opinion this is the only reasonable interpretation of that Sub-section and this is how it can be reconciled with Section 61 or Section 91 of the Act. Section 91 of the Act runs in the following terms:

91. If it does not appear to the Commissioner that the proceedings of the Collector require amendment, or if no appeal or objection is presented within the time allowed by Section 61, the Commissioner may proceed to consider the case without issuing any notice, and may confirm the partition as approved or made by the Collector.

24. The above being my interpretation of Sub-section (2) of Section 112 on which Dr. Gupta relied for the success of his contention, I am of opinion that the Commissioner was justified in rejecting the appeals of the Appellant on the ground of limitation. I may further point out that the order-sheet of the Commissioner shows that when he proceeded to consider the partition u/s 91 of the Act, there was no appearance before him on behalf of the Appellant. On that ground as well the Commissioner was under no necessity to refer to those objections which had been embodied in the appeal petitions of the Appellant and which were clearly barred by limitation. In this view of the matter I am of opinion that no illegality was committed by the Commissioner in following the statutory requirements prescribed in the Estates Partition Act for hearing of the appeals and objections.

25. I now proceed to consider the only other contention raised on behalf of the Appellant by Dr. Gupta, namely that the orders passed by the Member, Board of Revenue, rejecting the appeal and the revisional application of the Appellant were erroneous. A copy of the relevant orders of the Member, Board of Revenue,

was marked Ext. 3(f) in the Trial Court. I may quote the following portion:

Section 60 of the Act lays down that no proprietor who failed to appear on days fixed u/s 50 and Section 58 shall, unless he shows sufficient cause for such failure, be entitled at any subsequent time to make any objection to the orders which may be passed on such days respectively. It has been contended before me that the Appellant failed to appear before the Collector in response to the notice u/s 58 as he did not receive it.

26. This notice, however, was served at the address at which the notice u/s 50 was served and which was duly received by the Appellant. The Petitioner neglected his interest throughout the proceedings and is debarred u/s 60 from objecting to the partition at this last stage of the case. Partition proceedings cannot be allowed to be dragged on indefinitely under the flexible provisions of the Act. The appeal is therefore rejected.

27. It would appear from the abovequoted of the Member, Board of Revenue, that he refused to consider the applications of the Appellant on the merits because the Appellant had all through neglected to take any interest in the proceeding and he had particularly failed to appear before the Collector on receipt of the statutory notice u/s 58 of the Act. The learned Member, Board of Revenue, has relied on Section 60 of the Act which runs in the following terms:

60. No proprietor who has failed to appear before the Deputy Collector in person or by agent on a day fixed, u/s 50 or Section 57, for the partition of the lands into the several separate estates, and no proprietor who has failed so to appear before the Collector on a day fixed u/s 58 shall, unless he shows sufficient cause for such failure, be entitled at any subsequent time to make any objection to the orders which may be passed on such days respectively.

28. Service of notice u/s 58 of the Act was not denied by the Appellant. in this appeal. The penalty for such non-appearance has been prescribed in Section 60. According to the opinion of the Member, Board of Revenue, the Appellant having failed to appear before the Collector on receipt of the notice u/s 58, the order passed by the Collector approving the partition made by the Partition Officer cannot be challenged at any subsequent time without showing sufficient cause for the failure of the Appellant to appear before the Collector. Neither before the Member, Board of Revenue, nor in this Court, sufficient cause was shown by the Appellant for non-appearance before the Collector. That being the position, the order passed by the Collector approving the partition assumed finality. This was the view taken by the Member, Board of Revenue, and this is also the view which I take. If the Collector''s order had been varied by the Commissioner, the provision of Section 60 of the Estates Partition Act could not be applied. As, however, the order of the Collector in the matter of partition was confirmed wholesale by the Commissioner that order is not liable, to be challenged by the Appellant at any subsequent time. I, therefore, agree with the view taken by the Member, Board of Revenue, that, the Appellant was precluded from challenging

the partition before the Board of Revenue.

29. From what has been stated above, it would appear that in refusing to hear the appeals and the revisional applications of the Appellant on merits neither the Commissioner nor the Member, Board of Revenue, committed any error in law. There was, therefore, no fundamental irregularity in the procedure simply because those two revenue authorities refused to hear the appeals and the revisional petitions of the Appellant on merits.

30. The contentions raised on behalf of the Appellant having failed this appeal is dismissed with costs.

Banerjee, J.

31. I agree that this appeal must be dismissed. I have, however, my own reasons why that must be so.

32. Touzi No. 40. of the Twenty-four Parganas Collectorate, used to be owned by the Plaintiff and the Defendants, the Plaintiff having a two-thirds share therein and the Defendants an one-third share.

33. On January 21, 1944, Bimal Chandra Ghose, original Defendant No. 1, and Sachindra Nath Roy, Defendant No. 2, filed an application for partition of the said touzi, under the provisions of the Estates Partition Act, 1897 (hereinafter referred to as "the Act"). The aforesaid application was admitted by the Partition Deputy Collector and proceedings for partition of the estate were started. The Plaintiff Ram Coomar appointed three persons as his agents to represent him in the partition proceedings and executed an Agentnama in their favour, which was duly filed before the Partition Deputy Collector.

34. The Partition Deputy Collector determined how the land of the parent estate should be partitioned into separate estates and prepared a paper called "partition paper", in the prescribed form, in exercise of his power u/s 57 of the Act and the papers were submitted under provisions of Section 58 of the Act, for the sanction of the Collector.

35. It appears from the order-sheet, Ext. 3, that neither the Plaintiff nor his agents raised any objection to the partition, at any stage, before the Partition Deputy Collector.

36. No objection to the partition, as recommended by the Partition Deputy Collector, was also made before the Collector, although the order-sheet, Ext. 3, shows that notice u/s 58(1) was served on the Plaintiff. Thereafter, on November 21, 1945, the Collector approved of the partition, as made by the Partition Deputy Collector and directed usual notice u/s 59 of the Act to issue. He further directed that the records be submitted to the Commissioner for confirmation.

37. On January 21, 1946, the. Plaintiff filed an application before the Collector (Ext. 1), purporting to be one u/s 60 of the Act, attempting to show cause why he could not appear either before the Partition Deputy Collector or the Collector.

It was prayed in the aforesaid application that the order, dated November 21, 1945, be set aside and the partition proceedings be started de novo.

38. By his order, dated February 25, 1946, the Collector refused the aforesaid application, being of the opinion that the cause of non-appearance, as shown by the Plaintiff, was not a sufficient cause.

39. Thereupon, on March 25, 1946, the Plaintiff filed before the Commissioner two applications, u/s 112(2) read with Section 90 of the Act, praying by the one [Ext. 1(a)] that the Collector''s order, dated November 21, 1945, be set aside and a de novo partition proceeding be started and praying by the other [Ext. 1(b)] that the order of the Collector be set aside and that the Collector be ordered to re-open the partition.

Commissioner dismissed both the applications as time-barred by his order, dated October 8, 1946 [Ext. 3(e)]. The order is set out below:

8-10-46. Examination of the record shows that the notice u/s 61 was served personally on 28-11-45. Receipt of the notice was submitted by the Petitioner in his petition, dated 29-12-45.

Under Section 112(2) read with Sections 90 and 61 the time limit for filing the objection was 30 days from the date of the service of the notice u/s 61. The objection petition before me is dated 25-3-46. The petition is therefore time-barred and cannot be entertained.

40. A.S. Hands, Commissioner.

41. Thereafter, the Commissioner exercised his powers u/s 91 of the Act and passed the following order (Ext. 3C):

8-10-46. No appeal or objection having been presented within the time allowed by Section 61, I have considered the case and confirmed the partition as approved by the Collector, u/s 91.

42. Thereupon, the Plaintiff filed an appeal before the Board of Revenue u/s 113 of the Act [Ext. 1(c)] and also an application for revision u/s 114 of the Act [Ext. 1(d)].

43. By its resolution dated May 1, 1947 (Ext. 3f), the Board dismissed the appeal with the following observations:

In this case, notice u/s 50 of the Estates Partition Act was issued fixing 2-1-45 for hearing the parties. The Appellant appeared in response to the notice and asked for extension of time on two occasions. The prayers was granted but he failed to put in an appearance on the date of hearing. On 1-11-45 notices were issued by the Collector u/s 58 for consideration of the partition as made by the Deputy Collector. The Appellant did not put in an appearance and the partition was approved by the Collector.

44. Section 60 of the Act lays down that no proprietor, who failed to appear on

days fixed u/s 50 and Section 58 shall, unless he shows sufficient cause for such failure, be entitled at any subsequent time to make any objection to the orders which may be passed on such days respectively. It has been contended before me that the Appellant failed to appear before the Collector in response to the notice u/s 58 as he did not receive it.

45. This notice, however, was served at the address at which the notice u/s 50 was served and which was duly received by the Appellant. The Petitioner neglected his interest throughout the proceedings and is debarred u/s 60 from objecting to the partition at this last stage of the case. Partition proceedings cannot be allowed to be dragged on indefinitely under the flexible provisions of the Act. The appeal is therefore rejected.

46. The application for revision also shared the same fate. This led to the filing of the suit, out of which this appeal arises.

47. The Plaintiff alleged that divers illegalities attended the partition proceedings and that the order of the revenue courts were illegal and ultra vires and that the partition effected did not amount to lawful partition. The illegalities complained of, by the Plaintiff, are to be found in para. 13 of the plaint, which is set out below:

13. That the following illegalities in the proceeding of the said partition case make the proceedings null and void,?

(a) That the Deputy Collector was not entitled under the law to prepare the paper of partition without serving the requisite notices on the plaint or his authorised agents as well as on the neighbouring proprietors.

(b) That the Collector was not entitled under the law to approve the paper of partition without service of notice u/s 58 on the Plaintiff or his authorised agents and the paper of partition so approved was without jurisdiction and of no effect.

(c) That the order of the Collector refusing to entertain the application u/s 60 of the Estates Partition Act was illegal.

(d) That the Divisional Commissioner has entirely contravened the provisions of law in summarily rejecting the objections under Sections 112(2) and 90 on the ground of limitation without entering into the merits and in fact he never applied his mind to the fairness or otherwise of the allotment which he was bound under the law to do.

(e) That the confirmation of the paper of partition by the Divisional Commissioner in contravention of the provision of law as stated above is entirely without jurisdiction and have no legal effect.

(f) That in fact the said order of confirmation is not an order under Chapter X of the Estates Partition Act.

(g) That the order of the Hon''ble Board of Revenue in rejecting the appeal and the application for Revision on a technical ground without entering into merits thereof was entirely erroneous and with our jurisdiction.

48. The Plaintiff, inter alia, prayed:

(a) That the above orders of the Revenue Courts be declared illegal and ultra vires and it be declared that the estate in suit has not been partitioned under the Estates Partition Act.

(b) Permanent injunction be issued restraining the Defendants from taking delivery of possession from the Revenue authorities of his so-called separate allotment.

(c) A decree for partition and for partition to be effected under the provisions of Section 54 and Order 20, Rule 18 of the Code of Civil Procedure.

49. The Defendants contested the suit and the defence in substance will appear from paras. 13 and 15 of the written statement, which I quote below:

13. The Defendants deny the allegations in paragraph 9 of the plaint that the paper of partition was prepared by the Dy. Collector or was approved by the Collector without any service of notice on the Plaintiff, or that the allotments made have been seriously prejudicial to the interest of the Plaintiff. The Defendants state that notices were duly served and the allotments were made by the Deputy Collector and approved by the Collector on proper consideration of all the circumstances and this Court cannot enter into the question whether the allotments so made have been prejudicial to any of the parties. The Defendants further state that the Collector did not act without jurisdiction in rejecting the Plaintiff''s application u/s 60 of the Estates Partition Act and was justified in doing so on a proper consideration of the facts and circumstances appearing from the record itself and. this Court cannot go behind the said order which was thereafter confirmed by the Commissioner, Presidency Division, and the Board of Revenue. Nor can this Court consider whether the finding of the Commissioner that the Plaintiff''s application under Sections 112(2) and 90 of the Estates Partition Act were barred by limitation is erroneous. The Defendants submit that the said finding of the Commissioner is not erroneous.

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15. With regard to the submissions made in paragraphs 12, 13 and 14 the Defendants do not admit them to be correct. The Defendants deny that in law the estate has not been partitioned under the Estates Partition Act and that the proceedings of the said Partition Case are null and void on any of the grounds stated in paragraph 13 of the plaint or that the orders of the Revenue Courts are illegal and ultra vires and cannot operate as a bar to an order for partition of the estate by the Civil Court.

50. The learned Subordinate Judge dismissed the Plaintiff''s claim being of the opinion that the Civil Court had no jurisdiction to entertain the suit even though

the orders passed by the revenue authorities were illegal. He further held that the objections made by the Petitioner u/s 112(2) read with Section 90 of the Act were time-barred and the Commissioner was right in dismissing the same. The order passed by the Board of Revenue, the learned Subordinate Judge observed, may have been wrong but not without jurisdiction and as such the Civil Court could not interfere with it.

51. The decree made by the Court below dismissing the Plaintiff''s claim is being disputed before this Court at the instance of the Plaintiff.

52. Dr. Atul Chandra Gupta, learned Advocate for the Plaintiff Appellant, conceded, in his fairness, that he would not contend that notices had not been served on the Plaintiff. He argued a four-fold proposition of law for my consideration:

(a) Under the scheme of the Act it was the duty of the Collector and the Commissioner independently of any objection to examine the partition as made by the Partition Deputy Collector. That they did not do, on the technical ground that no objection to the partition had been made by the Plaintiff within the time allowed by law. That constituted a material irregularity or a fundamental defect in procedure.

(b) There was no period of limitation prescribed for an objection u/s 112(2) of the Act and the Commissioner was wrong in dismissing the objection petition, u/s 112(2), as time-barred.

(c) The appeal before the Board had been filed within the time allowed by law. The Board was bound to consider the appeal on its merits. In refusing to consider the appeal on merits, on the ground that the Plaintiff was debarred under the provisions of Section 60 of the Act from raising any objection to the partition, the Board refused to exercise its jurisdiction and that amounted to a fundamental defect or irregularity in procedure.

(d) If a Statute laid down specific rules as to the manner in which an enquiry was to be held and jurisdiction to be exercised by an administrative authority the enquiry held by a superior authority cannot be a proper substitute for the procedure laid down by law, if the specific rules had not been followed by the administrative authority. In such cares, Civil Courts would have jurisdiction to set aside orders passed by adopting such illegal procedure.

53. The arguments advanced by Dr. Gupta require careful consideration.

54. It is necessary for me to take up the last point first, because if the Civil Court had no jurisdiction to examine the case on its merits, then the other points argued by Dr. Gupta need not be considered at all, however fundamentally illegal or irregular the manner of partition might have been. In support of his contention that the Civil Court had jurisdiction to decide, a case, like the present one in which the proceedings before the revenue authorities were vitiated by fundamental defect in procedure, Dr. Gupta relied on the authorities:

(a) Secretary of State for India in Council v. Roy Jatindra Nath Choudhury Supra. In that case the Respondents who had been assessed to land revenue by diara proceedings under Act IX of 1847, in respect of accretions to their settled estate, brought a civil suit for a declaration that the proceedings were invalid. It appeared that a new survey and a new map having had been directed to be made, u/s 3 of the Act, a comparative map was prepared by superimposing upon another existing revenue survey map the result being tested by a local survey, but no new map showing the former and the present lines of diluviation was prepared. Section 6 of the Act provided that upon an assessment made, on inspection of such new map (i.e., a map made u/s 3), the orders of the Board of Revenue were to be final. The Respondents had objected to the assessment, though not op the ground of any irregularity as to the map, and their objections bad been rejected by the Board of ''Revenue; Their Lordships of the Privy Council held that there was no such irregularity in the proceeding as to prevent the decision of the Board of Revenue becoming final. But, nevertheless, their Lordships indicated the circumstances when civil courts would have jurisdiction to quash an order made by an administrative tribunal in the following language:

Their Lordships desire to make it clear, however, that the proceedings of the assessing authorities may be still subject to being quashed in the ordinary courts of law if they have been tainted by fundamental irregularity.

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Two conditions however, must be noted; the first is that mentioned, namely, that fundamental irregularity, that is to say, a defiance of or noncompliance with the essentials of the procedure would still give ground for questioning the proceedings in a Court of law. The second proposition is that the burden of establishing such essential and fundamental violation of statutory requirements rests upon the person alleging; it. Unless this last rule be adhered to, it manifest that the way will be opened to endless objections to procedure, even though these are substantially on questions of fact.

(b) Mahabunnessa Bibi v. Secretary of State for India Supra. In that case certain lands in which the Appellants claimed lakheraj title, were assessed by the Board of Revenue with revenue, on the ground that they originally formed the bed of a navigable river and were subsequently included by the Appellants within their lakheraj land. The Appellants questioned, by suit, the decision of the Board of Revenue on several grounds, one of them being irregularities in the proceedings before the revenue authorities. They won before the Trial Court but lost in appeal. On second appeal the High Court upheld the contention of the Appellants that the proceedings were vitiated by fundamental irregularity and must be set aside.

In course of the judgment New bould and Graham, JJ. observed:

We are unable to hold that when a statute lays down a specific rule as to the manner in which an enquiry is to be held and jurisdiction to be exercised, the enquiry held by a superior authority can be held to be a proper substitute for the procedure laid down by law. * * * *

We, therefore, hold that the resumption proceedings were vitiated by fundamental irregularities and that the Plaintiffs'' suit should have been decreed.

(c) 40 C.W.N., Syeda Fatema Banoo v. Sj. Kumar Kamala Ranjan Roy [1935] C.W.N. 539. This was a case under the Estates Partition Act. The point involved was whether an appeal to the Board of Revenue from an order of the Commissioner, remanding a case to the Collector for fresh partition, was maintainable. D.N. Mitter and Patterson, JJ., answered the point in the negative and held that the order by the Board of Revenue could be questioned in a Civil Suit. In course of their judgment their Lordships observed:

The Board of Revenue and other Revenue Courts were given special jurisdiction for a particular purpose. They were statutory bodies vested with special jurisdiction for a particular purpose. If they act according to the provisions of the statute which created them, the Civil Court has no jurisdiction to interfere, but if they act in contravention of the statute the interference of the Civil Court becomes justified.

55. Mr. Prafulla Kumar Roy, learned Advocate for the Respondents, tried to distinguish the case, reported in ILR Cal. 561, on the ground that Section 22 of Regulation II of 1819, under which the assessment of land revenue was made in the above case, itself provided for a suit and as such a suit to set aside assessment made under Regulation II of 1819 stood on a different ground. I am not impressed with this argument. The statement of law in ILR 53 Cal, 561, as to jurisdiction of Civil Courts to entertain suits to set aside orders by revenue or administrative tribunals, is general in nature and has little to do with, the provisions as to suits contained in Regulation II of 1819.

56. Mr. Roy argued, in the next place, on the authority of Raleigh Investment Co. Limited v. Govemor-General in Council Supra, that inasmuch as there were successive provisions provided in the Act, so as to have any defect in partition made by a Collector corrected, the suit, as framed, was incompetent and that the Civil Court had no jurisdiction to entertain the dispute and it would make no difference even if the order passed by the revenue authorities was. ultra vires the. Act. In my opinion, Raleigh Investment Company''s case is of little help to Mr. Roy. In that case an assessment made by the income tax authorities was disputed by way of a suit, filed in the original jurisdiction of the Calcutta High Court, on the ground that explanation 3 to Section 4, Sub-section (1) of the income tax Act (under which a dividend paid without British India was deemed to be income accruing and arising in British India to the extent to which it had been paid out of profits, subject to income tax in British India) was ultra vires the legislative power of the Indian Legislature, being, an extra territorial legislation. The challenge was sought to be made on two-fold ground; (i) Section 226 of the Government of India Act, 1935, put matters concerning the revenue or

concerning any act ordered or done in the collection thereof, according to the usage and practice of the country or the law for the time being in force, beyond the original jurisdiction of High Courts until, otherwise provided by an Act of an appropriate legislature, and (ii) Section 67 of the Indian income tax Act barred jurisdiction of civil Courts to set aside or modify assessments made under the Indian income tax Act. The contention of Assessee succeeded before the High Court but failed before the Federal Court, because that Court was of the opinion that Section 226 of the Government of India Act operated as a bar to the suit, although of the opinion at the same time, that explanation 3 to Section 4, Sub-section (1) was ultra vires. The Privy Council affirmed the judgment of the Federal Court on a different ground. Lord Uthwatt, who delivered the judgment of the Board, observed:

In construing the section (meaning Section 67 of the Indian income tax Act) it is pertinent, in their Lordships'' opinion, to ascertain whether the Act contains machinery which enables and Assessee effectively to raise in the Court the question whether a particular provision of the income tax Act bearing on the assessment made is or is not ultra vires. The presence of such machinery, though by no means conclusive, marches with a construction of the section which denies ah alternative jurisdiction to inquire into the same subject-matter. The absence of such machinery would greatly assist the Appellant on the question of construction and, indeed, it may be added that, if there were no such machinery, and if the section affected to preclude the High Court in its ordinary civil jurisdiction from considering a point of ultra vires, there would be a serious question whether the opening part of the section so far as it debarred the question of ultra vires being debated, fell within the competence of the legislature. In their Lordships, view it is clear that the income tax Act, 1922, as it stood at the relevant date, did give the Assessee the right effectively to raise in relation to an assessment made upon him the question whether or not a provision in the Act was ultra vires.

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57. In conclusion, the Lordships would observe that the scheme of the Act is to set up a particular machinery by the use of which alone total income assessable for income tax is to be ascertained. The income tax exigible is determined by reference to the total income so ascertained, and only by reference to such total income. Under the Act (Section 45) there arises a duty to pay the amount of tax demanded on the basis of that assessment of total income. Jurisdiction to question the assessment otherwise than by use of the machinery expressly provided by the Act would appear to be inconsistent with the statutory obligation to pay arising by virtue of the assessment. The only doubt, indeed, in their Lordships'' mind is whether an express provision was necessary in order to exclude jurisdiction in a'' Civil Court to set aside or modify an assessment.

58. The absence of a machinery in the Estates Partition Act, similar to that in the Indian income tax Act, to determine the legality or illegality of the decision of the

Board of Revenue or to examine whether the Board had acted without jurisdiction, distinguishes Raleigh Investment Company''s case from the present one. I am, therefore, inclined to accept the argument that if the proceeding before an administrative officer or tribunal, as in the present case, was vitiated by fundamental defect in procedure, Civil Courts would have jurisdiction to declare such proceeding bad and vitiated by material or fundamental irregularity and also to quash or set aside orders passed in such proceeding.

59. That takes me to the consideration of the question whether, in the instant case, there was any such fundamental irregularity which must have vitiated the proceeding. For that purpose I need, first of all, examine the scheme of the Act.

60. Section 4 of the Act gives to every recorded proprietor of a joint undivided estate the right to claim partition.

61. Chapter IV of the Act deals with initiation and discontinuance of partition and, inter alia, provides that every application shall be made in writing in the prescribed manner to the Collector of the district on the revenue roll of which the estate is borne. The Collector is required to notify the application and give notice inviting objections and is invested with power, u/s 22 of the Act, to reject the application, if after considering objections, if any, he is of the opinion that there is sufficient ground for so doing. If the Collector does not uphold objections, if any, to the claim for partition or if no objections are raised, he is required, u/s 29 of the Act, to admit the application and to record a proceeding. Section 31 authorises the Collector to refer the application to any Deputy Collector for the purpose of making enquiries and doing other things required to be done, by law, in connection with the partition.

62. Chapter VI of the Act deals with proceedings up to the determination of the partition and requires tie Deputy Collector to make survey and prepare record of existing rents and assets, publish such survey papers and record of existing rent and assets, unless of course all the proprietors admit in writing the correctness of any previous survey or of record-of-right or of measurement papers and rent rolls filed u/s 19. The Deputy Collector is, u/s 50 of the Act, required, thereafter, to fix a date for determination of partition, with notice to the proprietors of the estate under partition and also to the owners of the adjoining estates. The proprietors of the adjoining estates may, at this stage, object, if they dispute the possession of any kind of the estate under partition.

63. Chapter VIII of the Act deals with the making of partition by the Deputy Collector and the approval thereof by the Collector. On the date fixed u/s 50, the Deputy. Collector is required to determine, u/s 57 of the Act, how the lands of the parent estate shall be partitioned into separate estates, after considering, objections, if any, urged by the proprietors and to prepare a paper of partition. The case is thereafter submitted by the Deputy Collector to the Collector for sanction. The duties of the Collector are to be found in Section 58 of the Act. He is to cause service of notice, on the proprietors, of the date fixed by him for

consideration of the partition, as made by the Deputy Collector, consider objections, if any, made before him and thereafter pass such orders as he may think proper. Section 58 is set out below.

58. (1) The partition, as made under this chapter, shall be submitted for the sanction of the Collector, and he shall by notice fix a day for the consideration of the same.

(2) Every such notice shall be served on, the proprietors and shall be published in the manner prescribed by Section 104.

(3) The day fixed by the said notice shall be not less than fifteen days after the publication of the notice at the Collector''s office.

(4) After hearing and disposing of any objection which may be preferred, the Collector shall -pass such orders as he may think proper:

(a) approving the partition, with or without amendments ; or

(b) making a new partition; or

(c) returning the papers to the Deputy Collector for amendment of partition, or for making a new partition, with such directions as to the Collector may seem fit in regard to the issue of a notice to appear to the prorpietors or any of them who are specially interested.

(5) * * * * *

Section 60 of the Act provides that no proprietor, who had failed to appear before the Deputy Collector on the date fixed either u/s 50 or u/s 57 or before the Collector on the date fixed u/s 58, shall, unless he shows sufficient cause of such failure, be entitled, at any subsequent time, to make any objection to the orders passed on such dates respectively. Section 61 provides for the submission, by the Collector, of papers relating to partition to the Commissioner for confirmation and further provides for service of notice on all recorded proprietors of that fact; any appeal or objection must be presented to the Commissioner or to the Collector for transmission to the Commissioner, within 30 days from the date of service of such notice.

65. Chapter X of the Act deals with procedure before the Commissioner up to the completion of a partition. Sections 90 and 91 under that Chapter are as follows:

90. (1) If it appears to the Commissioner that the proceedings of the Collector should be amended, or if an appeal or objection is presented within the time allowed by Section 61, the Commissioner shall, by order, fix a day (not being less than thirty days from the date of such order) for hearing and disposing of the case, and shall cause notice of such day to be served through the Collector on all the parties.

(2) On the day so fixed, or on any subsequent day to which the hearing of the case may extend or is postponed by a notice posted up in his own office, the

Commissioner shall, after hearing and disposing of all appeals and objections, and calling for any further information which he may consider necessary, either confirm the partition as approved or made by the Collector, with or without amendments, or return the papers of the partition to the Collector, for any amendment which the Commissioner may think proper to be made.

(3) If the papers are returned to the Collector for amendment, the Collector shall proceed to make the required amendments or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to him for approval by a Deputy Collector, and shall thereafter return the papers to the Commissioner, who may then confirm the partition.

91. If it does not appear to the Commissioner that the proceedings of the Collector require amendment, or if no appeal or objection is presented within the time allowed by Section 61, the, Commissioner may proceed to consider the case without issuing any notice, and may confirm the partition as approved or made by the Collector.

66. Chapter XI of the Act deals with miscellaneous provisions and under that chapter, Section 112, dealing with appeals to the Commissioner and admission by him of objections, is set out below:

112. (1) An appeal, if presented to the Commissioner or to the Collector for transmission to the Commissioner, within one month from the date of the order appealed against, shall he to the Commissioner against every order of a Collector (whether such order be passed by the Collector in the first instance or in appeal from the order of a Deputy Collector)?

(a) rejection an application for the partition of an estate, or for the separation of a share, or putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(b) directing, u/s 29, that an application for partition or separation be admitted;

(c) directing, u/s 38, that any proprietor shall pay more than his proportionate share of the cost of a partition;

(d) made u/s 50, adopting a record of existing rents and other assets of land;

(e) refusing u/s 55, to approve a partition made by proprietors or by an arbitrator or arbitrators;

(f) refusing to allow a partition to be made, u/s 76, in accordance with

separate possession;

(g) directing, u/s 85, that any sum exceeding five hundred rupees shall be levied from the proprietor of an estate not under partition;

(h) confirming, amending or rejecting u/s 86, an allotment made u/s 84;

(i) made u/s 88, when a dispute or doubt exists as to whether any land forms part of a parent estate;

(j) imposing or confirming the imposition of a fine u/s 107; or [(k) imposing any fine amounting to more than fifty rupees, or directing the payment of any costs amounting to more than fifty rupees.

(2) Objections to any other orders passed by the Collector shall only be admitted by the Commissioner if made when he proceeds to consider a partition u/s 90 or Section 91.

Sections 113 and 114 of the Act provide respectively for appeals and revisions, against orders made by the Commissioner, before the Board of Revenue.

67. Turning now to the argument of Dr. Gupta that under the scheme of the Act it was the duty of the Collector or of the Commissioner themselves to examine the partition, independently of any objection made to them, I find that the requirement, if there is any such requirement at all, was satisfied. The Collector approved of the partition as made by the Deputy Collector, by his order, dated November 20, 1945. The Commissioner also, by his order, dated October 8, 1946, considered the partition as approved by the Collector and confirmed the same. Neither the Collector nor the Commissioner did approve of or confirm the partition merely on the ground that no objection or appeal had been filed by the present Appellant. I am, therefore, unable to accept this branch of the argument advanced by Dr. Gupta.

68. Regarding the other contention of Dr. Gupta that there was no period of limitation prescribed for an objection, u/s 112(2) of the Act, and that the Commissioner was bound to consider the two -objections filed by the present Appellant, u/s 112(2) of the Act, on March 25, 1946, and not ignore the same on the ground that they had not been filed in time, I am of opinion that the contention is not correct. Section 51 of the Act provides a period of limitation both for objections and appeals against partition approved or made by the Collector. Section 112(1) provides for appeals against certain types of orders made by the Collector, either in the first instance or in appeal from an order of the Deputy Collector and also provides a period of limitation for the same. Section 112(2) lays down that objection to "any other orders" passed by the Collector, that is to say orders other than those mentioned in Section 112(1), shall be admitted by the Commissioner, if made, when he proceeds to consider a partition under Sections 90 and 91. Dr. Gupta argued that an objection u/s 112(2) of the Act would include an objection against partition approved of or made by the Collector and such, an objection might be made at any time before the Commissioner proceeded to consider a partition under Sections 90 and 91 of the Act. There are more reasons than one why such an interpretation of Section 112(2) must be wrong. In the first place, Section 61 read with Section 58(4) of the Act provides for a period of limitation both for appeals and objections against orders for partition approved of or made by the Collector. That being so, the

words "any other orders" in Section 112(2) must include orders other than those mentioned in Section 61 or Section 112(1) of the Act. In the next place, Section 112(2) merely provides for a time when objections shall be admitted, that is to say, entertained by the Commissioner; it does not prescribe the time when such objections must be made. Because Section 112(2) provides for no period of limitation within its'' four corners that need not mean that the Sub-section provides for a second opportunity to a party to make that type of objection, which may have been become time-barred under the other provisions of the Act. In my reading of Section 112, it means that objection against proceedings before the Collector or orders made by him, prior to the stage referred to in Section 61 of the Act [other than those referred to in Section 112(1)], may be made or filed before the Commissioner by any objector but the Commissioner shall keep such objections on the file and must not admit the same until such time arrives that he proceeds to consider the partition u/s 90 or Section 91 of the Act.

69. For the reasons aforesaid I repel this branch of Dr. Gupta''s contention as well.

70. Before I leave this contention I have only one more word to add. The use of the words "appeals" and "objections", in juxtaposition in Section 61, may create a confusion about the respective scope of appeals and objections. The word "appeal" has a well known connotation being an application by a party made to an appellate court asking it to set aside or revise a decision of a subordinate court (1933) ILR 60 1 (Privy Council) . In contrast to an appeal an objection may mean an exception taken to an order, by which the attention of an appellate authority is drawn to a specific illegality or error in the order, prayer being made only for correction, of such illegality or error.

71. I now take up the remaining contention of Dr. Gupta. He argued that the appeal before the Board of Revenue had been filed in time. That appeal was dismissed on the ground that the Appellant was debarred u/s 60 of the Act from objecting to the partition at the last stage. This reasoning was said to be wholly erroneous because if there was a right of appeal given to a party, in spite of the provisions contained in Section 61, that appeal must be heard and disposed of on its merits and must not be thrown out on the ground that the Board did. This, in Dr. Gupta''s contention constituted another fundamental irregularity in the exercise of jurisdiction by the Board of Revenue. In my opinion, this argument is not very well conceived. A right of appeal may remain in a party but such a right does not determine the competency of the appeal. It -was held in Nagendra Nath Dey v. Suresh Chandra Dey (supra) that an appeal is no less an appeal, because it is irregular and incompetent. That being so, I have to see whether in the appeal the Appellant was entitled to ask the Appellant authority to determine the objection that he raised. Apart from the point of limitation, the nature of the objections raised was such that the Appellant could raise before the Collector, u/s 57 of the Act, at the stage when the Collector was going to approve of the partition. I have already observed that there is little substance in the point as to

limitation urged by Dr. Gupta. Section 60 of the Act bars for all subsequent times the objections, which a party could make at the Section 57 stage of the Act but did not make, unless without sufficient cause, of his failure to do. That being so, the Appellant could not be allowed to take, by way of grounds of appeal before the Board, objections which might have been taken before the Collector, but which had not been taken by him. The appeal was incompetent to that extent and the Board did not act with any fundamental irregularity in the exercise of its jurisdiction in dismissing the appeal.

72. Since an appeal did lie, the application for review was not maintainable.

73. In course of. his argument Dr. Gupta contended that if by a wrong interpretation of law an administrative tribunal either assumes jurisdiction in matters over which it had none or refuse to exercise its jurisdiction in which it-could exercise jurisdiction, a Civil Court would be competent to quash such an order. He relied on three cases in support of his proposition, the cases of Joy Chand, Lal Babu v. Kamalaksha Chowdhuri Supra, The King v. Justices of Lincolnshire Supra and Rex v. Fulhaw. Hammershmith and Kennsington Rent Tribunal Supra. I need not consider this branch of the argument, because, in iky opinion, there was no error committed by the revenue authorities in interpreting the provisions of the Act or in following the procedure laid down by law.

74. The above conclusions of mine make it unnecessary for me to consider the last contention of Dr. Gupta any further, in the present context.

75. In the view that I take, I agree with My Lord that the appeal must be dismissed with costs.