

(1922) 06 AHC CK 0026
In the Allahabad High Court

Ram Das and Another

APPELLANT

Vs

Dubri Koeri

RESPONDENT

Date of Decision : 05-06-1922

Acts Referred:

Citation : AIR 1922 All 336 : (1922) ILR (All) 724 : 77 Ind. Cas. 139

Hon'ble Judges : Grimwood Mears, C.J.;Gokul Prasad, J

Bench : Division Bench

Judgement

Grimwood Mears, C.J. and Gokul Prasad, J.—The plaintiff brought a suit in the Revenue Court to eject the defendant as his sub-tenant. The suit was fought out up to the court of the Commissioner and it was held that the defendant was not a sub-tenant, but a tenant-in-chief paying rent to the zamindar.

2. After failing in the Revenue Court, the plaintiff instituted the present suit in the Civil Court for setting aside the decree of the Revenue Court above-mentioned and for the possession of the land in dispute.

3. The defendant's contention was that he was the chief tenant and that such a suit did not lie and was barred by the rule of res judicata.

4. The Munsif decreed the suit, holding that the Revenue Courts were not competent to decide the question that the defendant was the chief tenant and not a sub-tenant of the plaintiff, and the present suit, being between rival tenants, was one cognizable by the Civil Court. This decision was affirmed on appeal.

5. The defendant appealed to this Court and a learned Judge of this Court has allowed his appeal and dismissed the plaintiff's claim. No doubt it was the tendency of the Court in earlier cases to allow such suits to be brought in the Civil Court, but this view has now been departed from.

6. Mr. Justice Piggott has very clearly discussed and put the present point of view in Baljit v. Mahipat ILR (1918) All. 208. We are in full agreement with his view.

The plea of sub-tenancy has been heard and finally determined by the only court capable of entertaining it, and the present suit of the plaintiff to have the decision of the Revenue Court set aside must fail.

7. For these reasons we agree with the decision of the learned Judge of this Court and dismiss the appeal with costs.