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**(1968) 08 AHC CK 0008**  
**In the Allahabad High Court**  
**Case No : Civil Revision No. 1039 of 1965**

Ram Sahai and others

APPELLANT

Vs

Amar Singh and others

RESPONDENT

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**Date of Decision :** 26-08-1968

**Acts Referred:**

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 330

**Citation :** (1968) 38 AWR 673

**Hon'ble Judges :** J.N. Takru, J

**Bench :** Single Bench

**Advocate :** V.K.S. Chaudhari s, for the Appellant;

**Final Decision :** Allowed

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## Judgement

J.N. Takru, J.—This application in revision by the Plaintiffs is directed against the order of the learned Munsif Banda deciding issue No. 3 against them.

2. It appears that the Applicants and opposite parties 2 and 3 instituted a suit for a declaration that they were entitled to the rehabilitation grant and for the recovery of the compensation and Adhivasi compensation realised by the first opposite party. The suit was resisted by the first opposite party and one of the pleas taken by him was that the Civil Court's jurisdiction to take cognizance of the suit was barred by Section 330 of the UPZA and LR Act (Act I of 1951)--hereinafter called the Act. On this plea the trial court framed the following issues:

Issue No. 3. Is the suit not cognizable by the Court?

After hearing the parties it held--and it was also a matter of concession by the opposite party--that as a claim in respect of Adhivasi compensation was not provided in part I of the Act, Section 330 had no application to it. It further held--and this was also a matter of concession by the opposite-party--that the suit in respect of compensation was also cognizable by the trial court. It, however, opined that the suit for a declaration that the Applicants were entitled to the rehabilitation grant, was barred its cognizance u/s 330 of the Act and it therefore

decided the issue accordingly. Hence this revision.

3. On behalf of the Applicants their Learned Counsel Sri V.K.S. Chaudhari, contended that as on a correct appreciation of the relevant sections of the Act, a suit in respect of rehabilitation grant was also cognizable by the Civil Court, the trial court, by holding otherwise, has refused to exercise the jurisdiction vested in it by law. After hearing Sri Chaudhari, ex parte, I am satisfied that this contention is well-founded. Section 330 of the Act lays down that:

Save as otherwise provided by or under this Act no suit or other proceeding shall lie in a Civil Court in respect of any entry in or omission from the Compensation Assessment Roll or in respect of any order passed under Part I of this Act.

4. Now it will be noticed that this section comprises of two parts. The first part relates to "an entry in or omission from the Compensation Assessment Roll" and the second part refers to any order passed under Part I of the Act. As both the Compensation Assessment Roll containing an entry as to the intermediary to whom the compensation in respect of the estate or part thereof is payable and an order as regards the person to whom the rehabilitation grant is payable occur in Part I of the Act, prima facie the bar of Section 330 would apply to both the matters, unless there was any other provisions in the Act saving them from its operation. So far as the Compensation Assessment Roll is concerned it is prepared in accordance with the provisions contained in Ch. III of Part I. Section 34 in that Chapter, contains a provision preserving the right of a person to establish his claim in respect of any estate or part thereof by due process of law in the court having jurisdiction, notwithstanding the finality, which subject to the right of appeal u/s 50, attaches to the entries contained in the Compensation Assessment Roll. That this is so is further made clear by Section 70 of the Act which provides that where any suit or proceedings is pending which directly or indirectly affects or is likely to affect the right of a person to receive the whole or part of the Compensation determined under Chapter III the court or authority may require the Compensation Officer to place at its disposal the amount so payable and the same shall be disposed of in accordance with the orders of such court or authority. It is, therefore, abundantly clear that the bar of Section 330 does not apply to a suit for a declaration of an intermediary's right and for the recovery of compensation in respect of the concerned estate or part thereof whether from the Compensation Officer or the person to whom it has wrongly been paid, though it would apply to suits which seek to challenge any other entry in or omission from the Compensation Assessment Roll. I would not have discussed this aspect of the matter at such length--since the trial court has already found in favour of the Applicant on it--had it not been for the fact that it has a vital bearing on the determination of the other question involved in this revision, to wit, whether a suit for a declaration regarding rehabilitation grant was barred from the cognizance of the Civil Court or not? In my opinion the answer to this question must be given in the negative for the simple reason that Section 73 of the Act provides for its payment to an intermediary (other than a

thekedar) whose estate has been acquired under the Act. It would, therefore, appear that the payment of the rehabilitation grant is inseparably linked up with the question of the intermediary to whom the compensation in respect of the concerned estate or part of the estate is payable. I should, therefore, think that if a person could bring a suit for the recovery, of the compensation payable, or paid, in respect of an estate or part thereof in the civil Court on the footing that he is the intermediary rightly entitled to it then it follows, as a matter of necessary implication, that he can also seek in the same suit a declaration that he is also entitled to the rehabilitation grant in respect of the same estate or part thereof which has been fixed or may be fixed under Chapter V. In my opinion therefore the trial court was in error in taking the view that a suit for a declaration concerning rehabilitation grant and for its recovery, was not cognizable by the civil Court. The result, therefore, is that this revision succeeds and is allowed, but as no one appeared to oppose it I make no order as to costs. The revision having been disposed of the record of the case shall be sent down to the trial court as soon as possible so that the hearing of the case may take place there without any further delay.