

(1955) 07 AHC CK 0021

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 495 of 1955

Ramdeo and Another

APPELLANT

Vs

The Board of Revenue and Others

RESPONDENT

Date of Decision : 13-07-1955

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 232

Citation : (1955) 25 AWR 472

Hon'ble Judges : M.L. Chaturvedi, J

Bench : Single Bench

Advocate : Man Singh, for the Appellant;

Final Decision : Dismissed

Judgement

M.L. Chaturvedi, J.—This is a petition under Article 226 of the Constitution.

2. The Petitioners filed a suit u/s 180 of the U.P. Tenancy Act for ejectment of Respondents Nos. 3 to 5. The suit was decreed and the Respondents filed an appeal before the Board of Revenue. This appeal remained pending for a long time and actually came up for hearing on the 21st February, 1955. Before the appeal was heard, the Respondents filed a certified copy of a Khasra of 1356F. in which they were recorded as occupants of the land. The Board of Revenue held that the entry was in favour of the Respondents (who were Appellants before the Board), and it had not been shown that they were not in possession in 1356F. Accepting, therefore, their possession in 1356F, it was held that they had acquired Adhivasi rights u/s 20 of the Zamindari Abolition and Land Reforms Act. On behalf of the present Petitioners, who were Respondents before the Board, it was argued that the claim was barred by time inasmuch as the period of 30 months had expired, as mentioned in Section 232 of the said Act. The Board took the view that the period of 30 months was applicable only to a case where an application was made by a person, claiming to be an Adhivasi, for being put in possession of the land and that the provisions of this section had no application to the proceedings before the Board of Revenue. In the end the appeal was

allowed and the suit for ejectment was dismissed.

3. The Learned Counsel for the Petitioners has urged the same point before me and his submission is that the claim was barred by time as 30 months" period had expired. After having heard the Learned Counsel, I have come to the conclusion that the contention is not well founded and the opinion taken by the Board of Revenue is correct. Section 232(1) of the Act says that an Adhivasi, to whom Clause (c) of Section 20 applies, may within 30 months from the date of vesting apply to the Assistant Collector, in charge of the sub-division, for putting him in possession of the land of which he is an Adhivasi. A reading of this Sub-section clearly shows that the period of 30 months had been made applicable to a proceeding envisaged in this Sub-section. If a person claims Adhivasi rights and files an application before the Assistant Collector, for putting him in possession of the land, he has to come to the court of the Assistant Collector within 30 months of the date of vesting. This period of limitation has nothing to do with a case where creation of Adhivasi rights is pleaded in defence to a suit for ejectment. In the case before the Board, there was a suit for ejectment, which had been decreed. During the pendency of the appeal, the law was changed and the Defendants to the suit took a fresh point in defence that they acquired Adhivasi rights and, therefore, the suit for ejectment must fail. I think, to a defence like that, the provisions of Section 232 would have absolutely no application, and the view of law taken by the Board of Revenue is correct.

4. The Learned Counsel then argued that the copy of the Khasra was filed at a very late stage of the proceedings. The copy was filed in appeal because the entries in it became relevant after the Zamindari Abolition and Land Reforms Act had come into force, which happened during the pendency of the appeal. Before, however, the appeal came up for hearing, the necessary copy was filed and the Board of Revenue accepted it in evidence. Clearly, the Board of Revenue had the jurisdiction to accept additional evidence and it cannot be said that it has committed any illegality in doing so.

5. There is no force in this petition and it is accordingly rejected.