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(1977) 02 SC CK 0029

In the Supreme Court Of India

Case No : ?Appeal (civil) 2041 of 196

Rana Sheo Ambar Singh — APPELLANT

Vs

Allahabad Bank Ltd. and Others — RESPONDENT

Date of Decision : 18-02-1977

Acts Referred:
Transfer of Property Act, 1882 — Section 73
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 18(1), 6

Citation : AIR 1977 SC 1552 : (1977) 2 SCC 604 : (1977) 3 SCR 33 : (1977) 9 UJ 225

Hon'ble Judges : M. Hameedullah Beg, C.J;P. S. Kailasam, J;A. C. Gupta, J

Bench : Full Bench

Final Decision : Allowed

Judgement

M.H. Beg, C.J.—This appeal by certificate raises the simple question whether certain trees, said to be part of a grove, are included in grove-land, which, u/s 6(a)(i) of the U.P. Zamindari Abolition and Land Reform Act, 1950 (hereinafter referred to as the Act), vests in the State of Uttar Pradesh free from all encumbrance. This very question was raised by the respondent decree-holder in the execution proceedings in this very case, between the same parties which came to this Court on an earlier occasion. We have perused the judgment of this Court reported in Rana Sheo Ambar Singh Vs. Allahabad Bank Ltd., Allahabad, in the case. We find that the position taken by the respondent decree holder then also was that, after the coming into force of the Act, what could still be sold in execution of the decree was the right in trees of groves as these continued to vest in the intermediary. This Court rejected that submission and held that after vesting of all the rights mentioned in Section 6 of the Act in the State of Uttar Pradesh, new bhumidhari rights came into existence u/s 18 of the Act. It also held that the only way, in which a mortgagee could enforce his right against the mortgagor after the Act came into force is provided in Section 6(h) of the Act, read with Section 73 of the Transfer of Property Act, 1882, so that nothing more than the compensation awarded to the intermediary could be a proceeded

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against by the mortgagee.

2. We are surprised that, even after that decision which, according to the appellant judgment debtor, constitutes a complete answer to any fuith execution proceedings in respect of any part of bhumidhari rights, executions should have proceeded against trees in grover and the view taken by the execution court, that there is a distinction between trees and a grove and groveland, should have been upheld by a Division Bench of the Allahabad High Court (Lucknow Bench). We find that it is impossible for us to accept this opinion in view of the definition of the intermediary's grove u/s 3(13) of the Act, which says: 'intermediary's grove means groveland held or occupied by an intermediary as such". This means that grove-land and an "intermediary's grove" are equated. And groves are only collections of trees in plots of land so as to preclude cultivation in them. The uncut trees are deemed to be parts of the land.

3. Section 18(1)(a) of the Act provides that an "intermediary's grove" is bhumidhari property. Rights in it are parts of bhumidhari rights. After those clear words of the enactment, we think it is not necessary even to consider previous definitions or to make out specious or unrealistic distinctions between standing uncut trees, which are parts of groves, and groves and grove land. The proposition is well settled under the general law, that trees, before they are cut, from parts of 'land'. And, an inseparable part is always included in the whole. In view of this very clear legal position, we allow this appeal and set aside the judgments and decrees of the High Court and the Execution Court with costs.

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