

(1955) 02 AHC CK 0006
In the Allahabad High Court
Case No : Second Civil Appeal No. 254 of 1954

The State of Uttar Pradesh

APPELLANT

Vs

Trust Jai Narain

RESPONDENT

Date of Decision : 11-02-1955

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 32, 33

Citation : (1955) 25 AWR 375

Hon'ble Judges : V. Bhargava, J

Bench : Single Bench

Advocate : B.N. Roy, for the Appellant;

Final Decision : Dismissed

Judgement

V. Bhargava, J.—This second appeal arises out of proceedings for assessment of compensation under the U.P. Zamindari Abolition and Land Reforms Act.

2. During the preparation of assessment roll by the Compensation Officer an objection was filed to the effect that the rents payable by certain tenants had been left out of the assessment roll and prayer was made that they be included in the assessment roll. The Compensation Officer rejected this objection on the ground that the tenants were not recorded in the papers constituting the record of rights and u/s 32 of the U.P. Zamindari Abolition and Land Reforms Act he was bound to accept the record-of-rights as correct and could not depart from the entries standing therein. An appeal from this order was filed before the learned District Judge who set aside the order of the Compensation Officer and directed him to decide the objection u/s 46 of the U.P. Zamindari Abolition and Land Reforms Act on merits.

3. The present second appeal has been filed against this order of the learned District Judge. Learned Counsel appearing for the State, on whose behalf the appeal has been filed, has urged that the learned District Judge was wrong in holding that the Compensation Officer should have inquired into the objection

and that he was not bound by the entries in the record of-rights u/s 32 of the U.P. Zamindari Abolition and Land Reforms Act. It is obvious that this submission is based on a complete misreading of the language of Section 32. In that section all that is laid down is that the entries in the record-of-rights are to be deemed to describe correctly the rights, title and interest of every intermediary in the estate or part to which it relates subject to Sections 23 and 33 and except as provided in Section 46. The entries are, therefore, given the privileged position of being treated as correct only in respect of rights, title and interest of intermediaries in the estate or part thereof. These entries have not been given any sanctity so far as other rights entered in the record-of-rights are concerned. For the purpose of preparing an assessment roll, the income of a mohal has to be calculated u/s 39 which requires the Compensation Officer to take into account rents including cesses and local rates payable in cash or payable partly in kind and partly in cash or wholly in kind. It also requires rent to be taken into account even when it has not yet been determined. There is no provision in this Act under which the rent as entered in the record-of-rights must be deemed to be the rent for the purpose of Section 39. In fact the provision requiring rent to be determined, where it has not yet been determined before the assessment roll has been prepared, clearly shows that the Compensation Officer has to prepare the assessment roll on the basis of the correct rental and not on the basis of the entries in the record-of-rights. Section 32 of the U.P. Zamindari Abolition and Land Reforms Act is, therefore, not at all applicable and the learned District Judge was quite right in allowing the appeal, setting aside the order of the Compensation Officer and in directing him to decide the objection on merits. The appeal is dismissed under Order 41, Rule 11, Code of Civil Procedure.