

Bhudeo Vs. Sm. Ram Devi and anr.

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Court : Allahabad

Decided On : Jan-05-1937

Reported in : AIR1937All369

Appellant : Bhudeo

Respondent : Sm. Ram Devi and anr.

Judgement :

Niamatullah, J.

1. This is an appeal by a judgment-debtor who is a tenant of agricultural land, from the order of the District Judge, Aligarh, and arises from proceedings which purport to have been taken under Section 4, United Provinces Assistance of Tenants Act (Act 8 of 1932), which came into force on 11th August 1932. The respondent land-holder instituted a suit for arrears of rent against the appellant and obtained, a decree on 18th August 1933, that is, long after the passing of the aforesaid Act. The appellant made an application after the decree was passed for action being taken under the Act. The lower Courts have held that, the decree for arrears of rent having been passed after the Act came into force, no action thereunder could be taken. The point in controversy will appear from a perusal of Sections 2 to 4 of the Act, which were enacted as an emergency measure for relief being given to tenants in respect of arrears for the years 1337 and 1338 Pasli. Section 2 empowers the Court to remit the arrears up to 25 per cent, in certain cases where a suit is brought by the landlord for arrears of rent in respect of those two years. Section 3 further empowers the Court to make the decretal amount payable by instalments. Section 4 lays down that:

The provisions of this Act shall apply to decrees already passed but so far unexecuted for arrears of 1337 and 1338 Fasli, provided that the tenant or the kadar files an application that it be so applied and along with his application deposits in Court an instalment equal to one fourth of the sum decreed.

2. The record does not show that he made a deposit of one-fourth of the sum decreed. The lower Courts are of opinion that Section 4 applies to decrees passed before Act 8 of 1932 came into force. It is contended that this view is erroneous and that the expression 'decrees already passed' means no more than decrees subsisting at the time of the application. The whole scheme of the Act negatives the argument put forward on behalf of the appellant. Section 2 entitles a tenant, against whom a suit for arrears of rent for 1336 and 1337 is instituted, to claim remission, and the Court is empowered to pass a decree only for a smaller sum. Section 3 gives further relief to the tenant, so that the decretal amount, that is, the arrears less remission allowed under the preceding section, are made payable by instalments. These reliefs could be granted in all suits instituted after the Act was passed. The object of Section 4 is

merely to extend the benefit of the Act to tenants against whom decrees for arrears of rent for those years had been passed before the Act came into force and who had no opportunity at the time of the passing of the decree to apply for the benefits of Sections 2 and 3. I do not think Section 4 can be so read as to make it applicable to decrees passed in suits commenced after the passing of the act. If a tenant against whom a suit is instituted after the passing of the Act and who fails to invoke the aid of Sections 2 and 3 cannot, after the decree is passed, have a second opportunity of applying to the Court that action can be taken under these sections. If this had been the intention of the Legislature, Section 4 would have been worded in much simpler language. It would have been enough to say : 'The provisions of this Act shall apply to all decrees for arrears of rent for 1337 and 1338 Fasli.'

3. Such a provision would have covered cases of all decrees for arrears in respect of those years, whether they were passed before or after the Act came into force. The Act clearly speaks as from its own date, and taken as a whole and with due regard to the object underlying it leaves no doubt to my mind that Sections 2 and 3 were intended to apply to decrees passed after the Act came into force and Section 4 was intended to apply to decrees passed before it. In this view the appeal has no force and is dismissed with costs.

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