

No. 214 of APPEAL

Civil Court, instituted on the

7th April 1900

Disposed of by

Syud. Mahmood Esq. J. R. C. B. C.

From the order of

M. Safar Hussain Khan Sulphur
Rae Bareilly 18th March 1900

Pughinder Singh
Appellant,

versus

Ramesh Narain
Respondent.

Date.

10th June 1900

Nature of case
and
point of issue.

N. N. N.
Claim to possession of 2-11-14 land
with Rahie trees valued at Rs 90/-
and to recover Rs 4/- on a price of grain
valuation in appeal Rs 60/-

Order
of
Lower Court.

Decree for possession of land No 277, 278
& 279 and Rs 4/- on a price of grain in favor
of App. The rest of the claim dismissed.

Grounds of Appeal
and
Objection of Respondent.

Order of Appellate Court,
and ground of decision ac-
cepting or rejecting Appeal.

The Plaintiff in this case is the Talukdar and the defect belongs to the head

of the ancient Zamindars of the village. - They claimed the superior right in the village; but the claim was dismissed. Similarly their claim for sales settlement was dismissed; but they were decreed ~~100%~~ under-proprietary right in certain land. - Finally their rights were determined by the following order of the Financial Commissioner:-

"The Financial Commissioner thinks the case need not have been reopened, enjoying as Plffs do as good a position as they ever did under the former Govt, but in as much as the Talukdar has a large village which he never had before, the Financial Commissioner under clause III para 14 of Cir. IV of 1867 decrees that Plaintiff profits including what is now in his possession be made up to 20 p.c. of the gross rental." -

This order is dated the 27th November 1870.

In 1872 the Financial Commissioner's order was carried out and rent-free land yielding 20 p.c. of the gross assessed rental was assigned to the Zamindars (amongst whom is the ^{Plff} Talukdar) who are now in possession of the land.

In the present suit the Plff Talukdar seeks to recover of possession of 2 Bighas of land together with Kachal trees standing thereon and of Rs 4/- the value of grass said to have been appropriated by the Deflt. The former Court has decreed the claim for

possession of the land and for 8 years value of grass.
The claim for the trees has been dismissed.

The Deflt has preferred this appeal and contends
that the land in suit was not included in the grass
rental of the village and therefore the order of the Financial
Comr of 27th Nov. 1870 ~~was~~ does not deprive him from
claim other rights in the village, only that he has been
in possession of the land adversely to the P^{lff} for more
than 12 years & has thus acquired rights by prescription.
The P^{lff} has preferred no appeal in regard to the
trees.

I agree with the hon^{ble} Comr in holding that the Deflt
his cohears having obtained land yielding 20 p.c. profits equal
to 20 p.c. of the gross rental, he has no further right
to any other land. I understood the order of the
Financial Comr to mean that the land was to
be given in lieu of all the rights which the Zamindars
had in the village. - Nor do I think that the
Deflt has acquired any rights by prescription. - Even
if the Deflt has been in continuous possession of the
land, such possession can be considered adverse only
from the date when he ceased to have a right to
hold ^{the land} ~~any~~ the day on which their land was
separated under the Financial Comr's order of 27th Nov. 1870.
Twelve years have not elapsed since that time,
& limitation or prescription does not affect this
case.

The appeal is dismissed with costs.

Mahomed
Judge
31st July 1880