

Privy Council Appeal No. 20 of 1936

Patna Appeal No. 30 of 1935

Raja Bahadur Giriwar Prasad Narayan Singh - - *Appellant*

v.

Rameshwar Lal Bhagat *alias* Dukhan Lal Bhagat - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT PATNA.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 13TH JANUARY, 1938

Present at the Hearing:

LORD MACMILLAN.

SIR SHADI LAL.

SIR GEORGE RANKIN.

[*Delivered by* SIR SHADI LAL.]

The question, upon which their Lordships have to pronounce in this appeal, is whether the Revenue Court had jurisdiction to entertain the suit brought by the plaintiff-appellant to recover a certain sum of money from the defendant-respondent on the allegation that the latter was his tenant, and was therefore liable to pay the money as rent to him. The answer to the question depends upon whether the plaintiff has succeeded in establishing that he is the landlord of the defendant in respect of the two villages, Gurturi and Kolhua, for which he claims the rent.

The history of the villages may be shortly stated. Both the villages, which are situated in the district of Palamau, were originally part of the jagir held by the plaintiff's ancestor within the zamindari of Raja Churaman Rai of Palamau. In 1800 the jagirdar transferred them to certain Chowdhris who, in 1806, assigned them to one Manog Bhagat, the predecessor in interest of the defendant. The nature of the transfer made in 1800 by the plaintiff's ancestor is the vital issue between the parties, and it will be examined presently.

It is, however, necessary to state that the villages descended from Manog Bhagat, in course of time, to one Janki Charan Bhagat who died, in 1901, without leaving a male heir in the male line. His daughter's son, Rameshwar Lal Bhagat, who is the respondent before their Lordships, claimed the estate, and took possession of both the villages. His right of inheritance was, however, disputed by the heir of the original jagirdar, who dispossessed him, claiming to resume the villages as Janki Charan Bhagat had died without leaving a lineal male heir.

Thereupon, Rameshwar Lal Bhagat brought an action against Giriwar Prasad Narayan Singh, who is the appellant in this appeal, for the recovery of the villages with mesne profits; and the dispute between them came up for decision before the High Court of Judicature at Patna in 1917. The learned Judges, who determined the dispute, delivered a long judgment on the 14th August of that year, whereby they decided that the then plaintiff was entitled to the estate as against the then defendant, the descendant of the original jagirdar, and granted him a decree for possession of the villages with mesne profits. From that judgment, the defendant, Giriwar Prasad Narayan Singh, brought an appeal to His Majesty in Council, but his appeal was dismissed on the 14th March, 1922.

Giriwar Prasad Narayan Singh, after this defeat, commenced the present suit against Rameshwar Lal Bhagat for the recovery of Rs.723/3, alleging that the Bhagat was holding the villages as his tenant, and was liable to pay to him the above-mentioned sum on account of rent. The suit was instituted in the Court of the Rent Suii Deputy Collector of Palamau who allowed the claim. On appeal by the Bhagat, the claim was dismissed by the Judicial Commissioner of Chota Nagpur on the ground that the transaction of 1800, by which the then jagirdar, the ancestor of the plaintiff, transferred the villages in question to the Chowdhris, the predecessors in interest of the defendant, was a sale of his entire interest in the villages and not a sub-jagir or a tenancy as claimed by the plaintiff. The defendant did not, therefore, hold in the villages an interest subordinate to the plaintiff, and was not a tenant of the latter. This decision has been upheld by the learned Judges of the High Court.

The same point has been agitated before their Lordships, and, after examining the arguments submitted on behalf of the parties and perusing the relevant documents, their Lordships do not find any valid ground for dissenting from the conclusion reached by no fewer than three Courts. It may be that the decision of the High Court on the issue of the respective rights of the parties in the villages, contained in their judgment of the 14th August, 1917, does not operate as *res judicata*, as the learned Judges, who decided the case, thought that the claim of the then plaintiff should be allowed "on the short ground that the defendants have not shown that they have any right to resume against the Chowdhris." The learned Judges, however, examined all the evidence "with a view to determining, as if the burden of proof was on the plaintiff, what was the nature and what was the effect of the transfer by the jagirdars to the Chowdhris and by the Chowdhris to Manog Bhagat." On that point they referred to various documents which threw light on the nature of the transfer made in 1800, and recorded their opinion that, even if the burden of proof was on the then plaintiff "he has proved that the Chowdhris purchased the rights of the jagirdars and that Manog purchased the

rights of the Chowdhris." They concluded "that the defendants have entirely failed to prove that the Chowdhris or the Bhagats were sub-jagirdars of the original jagirdars." This judgment, which was *inter partes*, has been admitted as evidence in the present case.

As already stated, the same view has now been taken both by the Judicial Commissioner and the High Court. Their Lordships concurring, as they do, in the conclusion reached by the High Court, think that it is unnecessary for them to repeat the reasons for holding that the transfer of 1800 was a sale by the plaintiff's ancestor of his rights in the villages in question to the Chowdhris, and that the plaintiff cannot arrogate to himself the status of landlord as against the present defendant.

Their Lordships will, therefore, humbly advise His Majesty that this appeal should be dismissed with costs.

In the Privy Council

RAJA BAHADUR GIRIWAR PRASAD
NARAYAN SINGH

v.

RAMESHWAR LAL BHAGAT *alias*
DUKHAN LAL BHAGAT

DELIVERED BY SIR SHADI LAL.

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