

1880

SIR HUSAIN  
v.  
MATA  
PRASAD.

own neighbourhood for satisfaction of the debt. This consideration is too insignificant to stamp the gift with fraud. We decree the appeal and reverse the decree of the lower appellate Court and restore that of the first Court and dismiss the suit with all costs.

*Appeal allowed.*

1880  
May 18.

*Before Mr. Justice Pearson and Mr. Justice Oldfield.*

RAM BARAN RAM (PLAINTIFF) v. SALIG RAM SINGH (DEFENDANT).\*

*Landholder and Tenant—Trees.*

*Held* that trees accede to the soil and pass to the landholder with the land on the termination of a tenancy, and unless the tenant uses, during the term of his tenancy, his privilege, where he has it, of removing the trees, he cannot do so afterwards; he would then be deemed a trespasser.

*Held* also that, where a tenant has been ejected in the execution of the decree of a Revenue Court for arrears of rent from the land forming his holding, his tenancy then terminates, and with it all right in the trees standing on such land or power of dealing with them. A person, therefore, who purchases the rights and interests of a tenant after his ejection in the execution of such a decree, cannot maintain a suit for the possession of the trees standing on the tenant's holding.

The plaintiff in this suit claimed the possession of certain trees as having belonged to the defendant Harakh Rai, whose rights and interests had been purchased by the plaintiff at an execution sale. Harakh Rai had been the tenant with a right of occupancy of the land on which such trees were standing, but had been ejected, previously to plaintiff's auction-purchase of such trees, in the execution of a decree for arrears of rent obtained against him by the defendant Salig Ram Singh the landholder. The Court of first instance gave the plaintiff a decree on the ground that a tenant did not lose his right to the trees standing on his holding, by reason that he had been ejected from his holding in the execution of a decree for arrears of rent. On appeal by the defendant Salig Ram Singh, the lower appellate Court held that Harakh Rai had lost his right to the trees by reason of his ejection from his holding, and dismissed the plaintiff's suit.

\* Second Appeal, No. 45 of 1880, from a decree of Maulvi Muhammad Baksh, Additional Subordinate Judge of Ghazipur, dated the 26th September, 1879, reversing a decree of Munshi Mohan Lal, Munsif of Ballia, dated the 7th June, 1879.

The plaintiff appealed to the High Court.

Munshi *Hanuman Prasad* and *Lala Lalta Prasad*, for the appellant.

Munshi *Subb Ram*, for the respondent.

The judgment of the Court (PEARSON, J., and OLDFIELD, J.) was delivered by

OLDFIELD, J.—The law may be stated to be that trees accede to the soil and pass to the landlord with the land, and unless the tenant uses, during the term of his tenancy, his privilege, where he has it, to remove the trees, he cannot do so afterwards; he would then be deemed a trespasser.

In this case the tenant had been ejected by his landlord in execution of a Revenue Court decree for arrears of rent from the land on which the trees stand, forming part of his tenant-holding; his tenancy then terminated and with it all right in the trees or power of dealing with them. The plaintiff bought the tenant's rights and interests after his eviction and cannot maintain this suit for possession of the trees.

We cannot allow the contention of the plaintiff's pleader that a tenant in this country has any right in trees standing on the land of his holding as something distinct from and independent of the tenant-right by which he holds the land, so that eviction from the land will not affect his right in the trees. It is difficult to see how he could after eviction assert any such right without being deemed a trespasser. No such right to trees is reserved by the Rent Act to an ejected tenant, the only rights reserved are by s. 42a. to the growing crops or other ungathered products of the earth belonging to the tenant, and growing on the land at the time of his ejection, and the right to use the land for the purpose of tending and gathering in such crops or other products paying adequate rent therefor. The appeal is dismissed with costs.

*Appeal dismissed.*

1880

RAM BAKH  
RAM  
V.  
SALIG RAM  
SINGH.