

the facts of the case are perfectly clear, namely, that the plaintiff is the owner of the land and the defendant is a mere *takarraridar* with no right in the land except that of securing a share of the produce, we accept the appeal and restore the decree of the District Judge with costs in the High Court.

C. H. O.

Appeal accepted.

APPELLATE CIVIL.

Before Mr. Justice Broadway and Mr. Justice Jai Lal.

NARAIN SINGH AND OTHERS (PLAINTIFFS)

Appellants,

versus

MST. SADA KAUR AND OTHERS (DEFENDANTS)

Respondents.

Civil Appeal No. 2163 of 1921.

Government Tenants (Punjab) Act, III of 1893—Government grant of land—status of the widow of the Abadkar who after the death of her husband acquired the occupancy rights in the land and gifted them to her daughters.

In 1899 H. S. was granted certain *abadkar* rights in Chak 295, Gogera branch, Chenab Canal. He died in 1903 leaving a widow and 3 daughters, and the land was mutated in January 1904 in favour of the widow who subsequently acquired occupancy rights in the land on April 1906, which she then gifted to her 3 daughters with the sanction of Government. The daughters paid the necessary money to Government and became proprietors of the land. The plaintiffs, as reversioners of H. S., brought a suit to contest the transfer by the widow of the occupancy rights in the land.

Held, that the widow acquired the occupancy rights for herself and not as representative of her deceased husband and her right to dispose of such self-acquired property is unlimited.

Sewa Singh v. Mst. Bholi (1), referred to.

First appeal from the decree of Lala Ghanishyam Das, Senior Subordinate Judge, Lyallpur, dated the 4th July 1921, dismissing the plaintiffs' suit.

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GHULAM RASUL and GHULAM MOHY-UD-DIN, for Appellants.

RAM CHAND MANCHANDA and IQBAL SINGH, for Respondents.

The judgment of the Court was delivered by—

BROADWAY J.—One Hari Singh, a Military Pensioner, was granted certain *abadkar* rights on the 25th of August 1899 in certain land situate in Chak No. 295, Gogera branch, Chenab Canal. He died on the 20th June 1903, leaving him surviving a widow *Mussamat* Sada Kaur and three daughters. This land was mutated in favour of the widow on the 18th of January 1904 and she subsequently acquired occupancy rights in the land on the 17th April 1906. Subsequent to that she applied for sanction to gift the lands to her three daughters. The Government acting through the Colonization Collector accorded the necessary sanction on condition of her making over the occupancy rights to her said three daughters. This she did and the daughters paid the necessary money to Government and became proprietors of the lands in question and were recognised by Government as such.

Narain Singh and others claiming to be reversioners of Hari Singh instituted a suit asking for a declaration that the gift to the daughters by *Mussamat* Sada Kaur should not affect their reversionary rights. This suit was contested on various grounds; one of them being that the plaintiffs were not Hari Singh's reversioners. This has been found against the defendants, but the plaintiffs' suit was dismissed

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on the ground that the occupancy rights had been acquired by *Mussammat Sada Kaur* for herself and an alienation by her could not be controlled by the reversioners of her husband.

The reversioners of Hari Singh have come up to this Court in appeal through Mr. Ghulam Mohy-ud-Din, who has contended that although the daughters must be regarded as proprietors of the land inasmuch as it is they who paid the money and purchased the proprietary rights in it, the gift to them of the occupancy rights by the widow of Hari Singh can form the subject of the declaration sued for. This contention is based on an assertion that *Mussammat Sada Kaur* had acquired the occupancy rights not for herself but as representing her husband. The present case is practically on all fours with the case of *Sewa Singh v. Mussammat Bholi and others* (1). The view I took of the question in that case is the view I still take of the law on the subject, and in agreement with the decision of the Court below I hold that *Mussammat Sada Kaur* acquired the occupancy rights in this land for herself and not in any representative capacity. Admittedly her right to dispose of such self-acquired property is unlimited. The view taken by the Court below is correct, and I would therefore dismiss this appeal.

[*The remainder of the judgment is not required for the purpose of this report.—Ed.*]

JAI LAL J.—I agree.

C. H. O.

Appeal dismissed.