

## Bempi Singho v. Davith Singho

COURT OF APPEAL.

VYTHIALINGAM, J. AND ATUKORALE, J.

C.A. (S.C.) 678/75 (F)—D.C. BALAPITTYA 1994/.

OCTOBER 24, 1978.

*Paddy Lands Act, sections 4 (1A), 4 (9), 14 (1), 19 (1)—Action by tenant cultivator in District Court for damages caused by wrongful eviction—Jurisdiction of Court to entertain such action.*

### Held

A person who is a tenant cultivator within the meaning of the Paddy Lands Act can maintain an action in an appropriate civil Court for damages that may be caused to him as a result of a wrongful eviction.

### Case referred to

- (1) *Hendrick Appuhamy v. John Appuhamy* (1966) 69 N.L.R. 29; 71 C.L.W. 97.

*E. A. G. de Silva with Miss D. Seneviratne*, for the appellant.

No appearance for the respondent.

*Cur. adv. vult.*

November 22, 1978.

**ATUKORALE, J.**

The appellant appeals from a judgment of the learned District Judge ordering him to pay the respondent a sum of Rs. 872 as damages for unlawful eviction from a paddy field. The respondent filed this action stating that he was the tenant cultivator of a certain paddy field and that he prepared the field for cultivation and sowed paddy therein on 10.5.1972. The appellant on 10.10.1972 unlawfully entered the field and ploughed it again and thereby caused loss and damage to the respondent. In his plaint the respondent prayed for a declaration that he was the tenant cultivator of the field and for restoration of possession and damages. The appellant in his answer denied that the respondent was the tenant cultivator. It would appear from the evidence led at the trial that the respondent on 21.5.1972 made a written complaint to the Assistant Commissioner of Agrarian Services notifying of his eviction from the paddy field—*vide* P6. The Assistant Commissioner who held an inquiry into the complaint under the provisions of the Paddy Lands Act by his order dated 24.3.1973 held that the respondent was the tenant cultivator and that he had been evicted by the appellant—*vide* P8. The plaint in the present action was filed on 30.8.1972, that is about 3 months after the written complaint (P6) to the Assistant Commissioner. The trial commenced on 30.3.1975. On that day issues were framed and the respondent confined his case to damages only, apparently in view of the above finding by the Assistant Commissioner, in his favour.

The only submission made by learned counsel for the appellant was that the respondent cannot maintain this action in view of the fact that the Paddy Lands Act contained a special and the only procedure open to a tenant cultivator in the event of his eviction from the land. He cited the judgment of His Lordship Sansoni, C. J. (1) in support of his contention. In that case the owner of a paddy field sought to eject the tenant cultivator on the ground that the latter failed to cultivate the field diligently. After a consideration of the provisions of the Paddy Lands Act the Chief Justice came to the conclusion that the landlord must resort to the machinery set out in the Act itself if he wants to evict the tenant cultivator or to have the field properly cultivated. We are in respectful agreement with that decision. Section 4(1) of the Act gives a tenant cultivator the right to occupy and use the land in accordance with the provisions of the Act and states further that he shall not be evicted therefrom. It also prohibited every person from interfering in the occupation and use of the land by the tenant cultivator. The only manner in which a tenant cultivator can be deprived of his right either under section 14(1) when the landlord gives written notice of his desire to be owner cultivator or under section 19 (1) when the tenant cultivator is not cultivating land in accordance with the principles of good paddy cultivation. In either case the Act lays down the procedure to be followed before eviction of the tenant cultivator. It is thus quite clear that no landlord can institute action in the regular courts to eject his tenant cultivator.

The matter for our decision, however, is whether a tenant cultivator can maintain in court a claim for damages for unlawful eviction. Section 4 (1A) of the Act provides the machinery by which a tenant cultivator who has been evicted can obtain for himself restoration of the use and occupation of the land. Section 4 (9) makes it an offence for any person to interfere with the use and occupation of the land by a tenant cultivator. Such a person on conviction after a summary trial before a Magistrate becomes liable to a fine not exceeding five hundred rupees and in default to imprisonment to a term not exceeding one month. The question for determination is whether the provisions of the Paddy Lands Act, particularly in view of the procedure set out in section 4 (1A) and the penalty imposed by section 4 (9) oust the jurisdiction of a civil court to grant damages caused to a tenant cultivator

as a result of his being unlawfully evicted. A perusal of the various sections of the Paddy Lands Act makes it quite clear that the whole object was to provide the maximum amount of security of tenure for tenant cultivators. Section 4 (1) of the Act gives a tenant cultivator an absolute legal right to occupy and use the land for the purpose of paddy cultivation. In the instant case in the exercise of this right the respondent prepared the land for cultivation and in fact sowed paddy therein. He was entitled to do so and in the normal course he would have reaped the crop and enjoyed the benefit of his labour but for the appellant's wrongful act. Thus the respondent has a valid cause of action against the appellant to claim the damages which resulted from the appellant's wrongful act. The Act does not provide for any relief to be granted to a tenant cultivator from the date of his eviction until he is restored to the enjoyment of his rights. Section 4 (1A) sets out the procedure for regaining the lost right of user and occupation. Section 4 (9) penalises a person who interferes with the enjoyment by a tenant cultivator of his rights. Neither section gives any relief to a tenant cultivator for the loss he sustains as a result of being evicted. I do not think that the legislature by prescribing a penalty in section 4 (9) intended to deprive a tenant cultivator of the right to institute action in a court for damages for wrongful eviction. The maximum fine that can be imposed on a wrongdoer under that section is Rs. 500. No part of this fine is payable to the tenant cultivator. The fine that is prescribed does not take into consideration the enormity of the damage that may be caused to a tenant cultivator. Unless a tenant cultivator is permitted to recover damages in a civil court a scheming landlord can set at naught the benefit of the statutory protection given to a tenant cultivator under the Act by causing the cultivation to be damaged every season until the tenant cultivator is compelled to abandon the land out of sheer frustration. For the above reasons we are of the view that a tenant cultivator can maintain an action in an appropriate civil court for damages that may be caused to him as a result of a wrongful eviction. Accordingly we dismiss this appeal. There will be no costs of appeal.

**VYTHIALINGAM, J.**—I agree.

*Appeal dismissed.*