
(2010) 09 AHC CK 0148

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 13172 of 1988

Bhagwan Singh

APPELLANT

Vs

Addl. Commissioner

RESPONDENT

Date of Decision : 21-09-2010

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 27, 27(6), 6, 6A

Citation : (2011) 2 ADJ 422

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Petitioner before this Court seeks quashing of the order of the Additional Commissioner, Meerut Division, Meerut dated 28.6.1988 wherein in exercise of powers u/s 27 of Sub-clauses (4) and (6) of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 on 10.11.1980 with the Petitioner has been cancelled after exercise of suo moto powers.

2. The order impugned Annexure No. 2 to the writ petition is challenged before this Court only on one ground namely the proceedings u/s 27(6) Act No. 1 of 1961 were initiated beyond the prescribed period of "seven years" provided for under the said clause. Therefore, the entire proceedings are wholly without jurisdiction. According to the Petitioner, the period of "seven years" has to be counted from the date of issuance of the patta in the facts of the case on 10.3.1977. The notice u/s 6 itself has been issued on 4.9.1986 i.e. after 7 years therefore is bad.

3. Standing Counsel in reply contends that an amendment was made by UP. Act No. 26 of 1980 where the words "two years" as existing in Section 27(6) were substituted by the words "seven years". This amendment came into force on 10.11.1980 and the period of seven years has to be counted after said date i.e. 10.11.1980. The impugned proceedings are therefore within time.

4. I have heard counsel for the parties and have examined the records.

5. From the rival contentions raised on behalf of the Petitioner, it is apparently clear that the only issue involved in the present writ petition is as to what shall be the starting point for computation of the period of "seven years" in terms of Section 27 in Sub-clause 6 and" as to whether in the facts of the case this period is to be counted from the date patta was granted/approved by the Sub-Divisional Magistrate i.e. 10.3.1977 or from the date the Section 27(6) was introduced in the U.P. Imposition of Ceiling on Land Holdings Act, 1960.

6. For appreciating the aforesaid controversy, it would be relevant to reproduce the amendments introduced words vide U.P. Act No. 20/1982 with effect from 10.11.1980 in the Act of 1960 and which reads as follows:

Amendment of Section 27 of U.P. Act No. 1 of 1961. - In Section 27 of the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960:

(i) in Sub-section (6), for Clauses (a) and (b), the following clauses shall be substituted, namely:

(a) in the case of any settlement made or lease granted before November 10, 1980, before the expiry of a period of two years from the said date, and

(b) in the case of any settlement made or lease granted on or after the said date, before expiry of a period of five years from the date of such settlement or lease.

Vide U.P. Act No. 24 of 1986 the words "two years" in Clause (a) were substituted to read as "seven years". The amended provision 27(6) reads as follows:

(i) in Clause (a), for the words "two years", the words "seven years" shall be substituted and be deemed always to have been substituted;

(ii) in Clause (b), for the words "five years from the date of such settlement or lease", the words "five years from the date of such settlement or lease or up to November 10, 1987, whichever be later" shall be substituted and be deemed always to have been substituted.

7. From the reading of the aforesaid provisions of Clauses (a) and (b) of Section 27 it shall be amply clear that so far as the settlements made prior to November 10, 1980 are concerned, the Legislature at the first instance in its wisdom decided to prescribe the period of "two years" for the Commissioner to exercise suo moto powers in the matter of cancellation of settlements of surplus land. Logical this period of two years has to be counted from date of the introduction of Sub-section 6 i.e. 10.1.1980.

8. In the opinion of the Court, in the matter of settlements and leases which were granted before 10.11.1980 (irrespective of the date on such settlement was made) the period of two years was provided for exercise suo moto powers of the

Commissioner and other interpretation would frustrate the purpose of the averments so introduced and would create a situation were lease settlements granted more than two years prior to 10.1.1980 would not be reopened u/s 27(6).

9. This period of "two years" has been amended to read as "seven years" and to have always been so substituted under U.P. Act No. 24/1986. As a logical conclusion this period of "seven years" must also be counted from the date Section 6-A was introduced i.e. 10.11.1980.

10. This Court therefore holds that the period of limitation for exercise of powers by the Commissioner u/s 27(6)-A of U.P. Imposition of Ceiling on Land Holdings Act would start from 10.11.1980 so far as the lease and settlements prior to the said date are concerned and the actual date on which the lease/settlement was granted is wholly irrelevant.

11. There is another reason for arriving at the same conclusion. From a reading of Sub-section 27(6)-B it will be seen that in respect of settlement and lease granted after 10.10.1980 the period for exercise of suo moto powers by the Commissioner has been provided as 5 years from the date of such settlement of the lease or up to 10.11.1987 whichever is later. It will therefore be seen that under Clause (b) also the Commissioner can exercise suo moto powers up to 10.11.1987 in respect of lease granted after 10.11.1980 and qua which the period of 5 years have expired after such grant.

12. For the reasons recorded above, this Court finds that the contention raised on behalf of the Petitioner has no force. The Commissioner could exercise his suo moto powers within seven years from 8.11.1980 in the matter and he has rightly done so in the facts of the present case.

13. Writ petition lacks merit and is accordingly dismissed. Interim order, if any, stands vacated.