
(1961) 12 MP CK 0017
In the Madhya Pradesh High Court
Case No : C.M.P. No. 77 of 1959

Chandrojirao (Col. Shrimant Sardar)

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 07-12-1961

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Madhya Bharat Abolition of Jagirs Act, 2008 — Section 4, 5

Citation : (1962) MPLJ 482

Hon'ble Judges : P.R. Sharma, J; A.H. Khan, J

Bench : Division Bench

Advocate : B.D. Gupta, for the Appellant; Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sharma, J.

By this petition under Articles 226 and 227 of the Constitution of India the petitioner seeks that the order dated the 26th of April 1955 passed by the Tehsil Court Pargana Sonkutch, which was confirmed on appeal by the Deputy Collector, Dewas, the Additional Commissioner, Indore, and eventually by the Board of Revenue, be quashed.

The petitioner is an ex-Jagirdar of a group of villages called as the Jagir Navri Bhorasa, which was resumed by the State on the coming into force of the Madhya Bharat Abolition of Jagirs Act, Samvat 2008 (hereinafter called the Act). On both sides of the road connecting Bhorasa with the Dewas Astha road the petitioner claims to have planted a row of mango-trees. The Tehsildar wanted in 1955 to sell by public auction the fruit-crop of these mango-trees. The petitioner presented an application on 8-2-1955 before the Tehsildar Sonkutch wherein he claimed that the mango-trees in question had been planted by him and he had incurred expenditure towards their up-keep. The mango trees were, according to the petitioner, a "grove" of trees owned by him, which he was entitled to

continue to hold under the provisions of section 5(iv) of the Act. The Tehsildar found that the land on which the trees stood was shown as "Padat" Government land in the revenue papers. It was also held by the Tehsildar that the trees in question could not be called a "grove" so as to attract the application of section 5(iv) of the Act. The decision of the Tehsildar on the latter point was upheld by the appellate Courts. The Board of Revenue, however, held that for the purpose of section 5(iv) of the Act it was immaterial whether the grove of trees "stands on any occupied, unoccupied or communal land. It, however, held that in order to constitute a "grove" the trees should be "planted in such numbers as may preclude or when fully grown preclude, the land on which they stand as a whole, or a considerable portion of such land, from being used for any other purpose. In the instant case the line of trees in single file along one and a half mile of the road could not, in the opinion of the Board of Revenue, be described as a "grove".

The contention of the petitioner before us was that the interpretation placed by the Board of Revenue and the Courts subordinate thereto on the word "grove" as used in section 5 (iv) of the Act is incorrect. Section 5 (iv) of the M. B. Jagir Abolition Act runs as under:-

Section 5 (iv) - all groves wherever situate; belonging to or held by the Jagirdar or any other person, shall continue to belong to or be held by such Jagirdar or other person, as the case may be, and the land thereof with the areas appurtenant thereto shall be settled on him by the Government according to the provisions of the Madhya Bharat Revenue Administration and Ryotwari Land Revenue and Tenancy Act, Samvat 2007.

In the Hindi version of the Act, we find that the word "groves" has been translated as

The word "grove" is not referable to any Indo-European root: Skeat connects it with "grave", to cut, and makes the original meaning a glade cut through a wood, a small group of trees smaller than a wood, growing naturally or planted in particular shapes in a park etc., "-(See - The Encyclopedia Britannica, Vol. 10, page 919).

According to the Webster Dictionary also the word "grove means "a smaller group of trees than a forest and without Underwood, planted or growing naturally as if arranged by art, a wood of small extent."

The learned counsel for the petitioner, however, referred to the Chambers's Dictionary in which the word "grove" is stated to mean also "an avenue of trees" besides "a wood of small size, generally of a pleasant or ornamental character." Reference was also made by the learned counsel to the Oxford Dictionary in which the word "grove" is stated to mean "a small wood; a group of trees affording shades or walks".

We have, therefore, to determine in the present case whether the word "grove" as used in section 5 (iv) of the Act includes within its meaning "an avenue of

trees affording shades or walks". It was not suggested before us that the road on both sides of which the mango-trees stand in the instant case in single-file was not a public road even before the resumption of jagir. Section 4(i) of the Act provides that as from the date of resumption the right, title or interest of a Jagirdar in his Jagir-lands including forests, trees etc., shall, save as otherwise provided in the Act, stand resumed to the State. Then follows section 5 of which sub-section (iv) provides that all groves wherever situate belonging to or held by the Jagirdar shall continue to belong to or be held by such Jagirdar. Trees standing on lands included in such enclosures or house-sits as are specified in clauses (i) and (ii) of section 5 (b) were saved from the operation of section 4 by virtue of the provisions of sections 3(in) of the Act.

It would thus follow that the trees which were not on the date of resumption standing on lands personally cultivated by the Jagirdar or such as he was entitled to retain under the provisions of clauses (i) and (ii) of section 5(b) of the Act would, as from the date of resumption, vest in the State by virtue of the provisions of section 4(1) (a), unless the "trees" could be called a "grove" within the meaning of section 5(iv) of the Act. Evidently, therefore, the word "grove" was intended to be used not in a general but a specific sense. It was observed in the case of Daropadi v. Mannulal AIR 1929 All. 557, by Ashworth J. that it was the proper view of the law, as it existed before the passing of the Agra Tenancy Act of 1926 which had been expressed in the definition of the words "grove-land" and "grove" in section 3 of that Act. According to that view the word "grove" had always been held to mean trees in such sufficient numbers as prevent or would, when they reach their full size, prevent the use of the land on which they stand for any other purpose.

I am of the opinion that the word "grove" has been used in section 5 (iv) of the Abolition of Jagirs Act in the sense of a group of trees smaller than a forest, growing naturally or in particular shapes, rather than a mere "an avenue of trees". The fact that in the authorised Hindi version of the Act the word "grove" was translated as

points to the same conclusion. Surely enough a Bingle line of trees on either side of a public road could not be called a

The definition given in section 3 of the Agra Tenancy Act of the words "grove-land" and "grove" merely express the sense in which these terms had always been interpreted.

I am, therefore, of the opinion that the interpretation placed by the Board of Revenue on the word "grove" as used in section 5 (iv) of the Act was correct.

This petition has, therefore, no force and is hereby dismissed with costs. Counsel's fee Rs. 100.

Khan, J.

Apart from the definition of "grove" given by my learned brother, with which I

find myself in entire agreement, this petition must also be dismissed on the ground that it has been held by the Tehsildar that the land on which the disputed trees stand is "Parti Sarkari". It was further held by the Deputy Collector and Commissioner that this land belongs to Public Works Department. In other words, the land is Government property. This finding of fact has not been challenged by the petitioner and in the circumstances it must be regarded as final. It being BO, the claim for the trees is untenable.