
(1972) 11 AHC CK 0028

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 4269 of 1970

Hukum Singh

APPELLANT

Vs

District Judge, Bulandshahr and others

RESPONDENT

Date of Decision : 16-11-1972

Acts Referred:

Imposition of Ceiling of Land Holdings Act, 1961 — Section 14(3), 14(5)

Citation : (1973) 43 AWR 51

Hon'ble Judges : G.C. Mathur, J

Bench : Single Bench

Advocate : R.P. Singh, for the Appellant;

Final Decision : Allowed

Judgement

G.C. Mathur, J.—By this writ petition the Petitioner has challenged an order of the Prescribed Authority under the Imposition of Ceiling on Land Holdings Act passed on objections filed by certain persons u/s 14(3) of the Act and an order of the District Judge, Bulandshahr, dismissing the Petitioner's appeal against that order as not maintainable.

2. It appears that Respondent No. 4 Smt. Asghari Begum was originally the tenure holder of a large number of plots including plot No. 642. Shortly before the proceedings started under this Act, the Respondent No. 4 by a sale deed dated 29-4-1967 sold plot No. 642 to the Petitioner. Notice u/s 10(2) of the Act was issued to the Respondent No. 4 and plot No. 642 was also treated as a holding of Smt. Asghari Begum. Smt. Asghari Begum filed certain objections. Ultimately, by an order dated July 2, 1968, the Prescribed Authority held certain plots to be the surplus area and the remaining plots including plot No. 642 to be the ceiling area of Smt. Asghari Begum. This order became final, as no appeal was preferred by any party against it.

3. A notification was published in the official gazette dated November 16, 1968, setting put the plots which had been declared surplus land of Smt. Asghari

Begum. Certain persons filed objections u/s 14(3) of the Act By the impugned order dated June 27, 1969, the. Prescribed Authority allowed some of the objections. The result of the allowing of these objections was that the area of surplus land was reduced. In order to make up this surplus area the Prescribed Authority ordered that certain plots, which had been included in the ceiling area of Smt. Asghari Begum, will now be included in the surplus area. One of such plots was plot No. 642, which the Petitioner had purchased from Smt. Asghari Begum, Against the order of the Prescribed Authority directing plot No. 642 to be transferred from the ceiling area to the surplus area the Petitioner filed an appeal before, the District Judge, Bulandshahr. The District Judge has dismissed the appeal as not maintainable, The Petitioner has now challenged both these orders.

4. The learned Standing Counsel; has not been able to support the decision of the District Judge that no appeal lay against the order of the Prescribed Authority. The Prescribed Authority had passed the impugned order Under Sub-section (4) of Section 14 on the objections filed by certain persons Under Sub-section (3) of Section 14. Sub-section (5) of Section 14 provides--

Any person aggrieved by an order Under Sub-section (4) may, within thirty days of the date of the order, prefer an appeal to the District Judge in whose jurisdiction the land or any part thereof is situate. The order of the District Judge shall be final and conclusive and be not questioned in any court of law.

This sub-section gives a right of appeal to "any person" aggrieved by the order Under Sub-section (4). There can be no manner of doubt that the Petitioner was aggrieved by the order passed by the Prescribed Authority Under Sub-section (4). Sub-section (5) does not further require that the aggrieved persons should also have preferred objections Under Sub-section (3) of Section 14. Therefore, on the plain language of the Sub-section (4) the appeal preferred by the Petitioner was maintainable.

5. Coming now to the main question, the learned Counsel for the Petitioner has contended that the Prescribed Authority had no jurisdiction, when passing an order Under Sub-section (4) of Section 14, to take any plot out of ceiling area and to include it in the surplus area. The contention is fully justified. Under Sub-section (1) of Section 14 the land determined Sub-sections 11 to 13 as surplus land is to be notified in the official gazette. Under Sub-section (3) any person claiming interest as a tenure-holder or a lessee in possession from the tenure-holder in the surplus land in respect of which the notification has been published may file objections. It is, therefore, obvious that the objections can be filed only in respect of the surplus land. Sub-section (4) then confers power and jurisdiction on the Prescribed Authority to decide these objections. Under Sub-section (4) the Prescribed Authority can only decide whether the objections relating to the surplus land are well founded or not. The Prescribed Authority has not been invested with any power to take any decision in respect of plots included in the ceiling area when it proceeds to decide the objections Under Sub-section (3) of Section 14.

There can be no manner of doubt that Under Sub-section (4) of Section 14 the Prescribed Authority had no power or jurisdiction to interfere with the earlier order dated July 2, 1968, by which the ceiling area and surplus area had been determined and which order had become final. That part of the impugned order, of the Prescribed Authority which takes the Petitioner's plot No. 642 out of the ceiling area and transfers it to the surplus area is, therefore, totally without jurisdiction and is void.

6. The writ petition is, accordingly, allowed and the order of the Prescribed Authority dated June 27, 1969, in so far as it takes the Petitioner's plot No. 642 out of the ceiling area and places it in the surplus area is quashed. The order of the District Judge dismissing the Petitioner's appeal is also quashed. The Petitioner is entitled to his costs from Respondents Nos. 2 and 3.