
(1982) 02 AHC CK 0069

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 1930 of 1981

Jaggoo Singh

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 24-02-1982

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 10(2), 31(3)

Citation : AIR 1982 All 241

Hon'ble Judges : A. Banerji, J

Bench : Single Bench

Advocate : S.N. Agrawala, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Disposed Of

Judgement

A. Banerji, J.—This writ petition was filed by the petitioner Jaggoo Singh against an order passed by the 2nd Additional District Judge, Bulandshahr, dated 29th Sept., 1980 in an appeal against the order of the prescribed authority, Sikandrabad declaring an area 47-1-10 as surplus. The order of the prescribed authority is dated 28th Nov. 1974. The petitioner filed an appeal against this order. The appellate authority dismissed the appeal on 6-10-1975. A writ petition (Writ Petition No. 835 of 1976) was filed in this Court by the petitioner. The writ petition was allowed by this Court on 13th Apr., 1978 and the order of the appellate authority was quashed. The appellate authority was directed to determine the ceiling area afresh. When matter went back before the appellate authority, 2nd Addl. District Judge, he allowed the appeal in part and declared 28-13-5 in terms of irrigated land as surplus. It is against this order that the present writ petition has been filed.

2. The State of U. P. had filed an application on 28th July, 1981 praying for the abatement of the present writ petition. The ground set out is that the State Government had issued a fresh notice u/s 10 (2) of the Act on 23rd Feb., 1976

and under this notice an area 216 Bighas, 2 Biswa and 13 Biswansi were proposed to be declared as surplus in terms of the irrigated land. It is also stated therein that the land declared surplus in the present case was also included therein.

3. It is, therefore, evident that this application filed by the Standing Counsel on behalf of the State is to be disposed of first. If the fresh notice u/s 10 (2) of the Act is valid and maintainable then the question of surplus land of the petitioner will have to be determined in fresh proceedings. In that even there is no justification for continuance of the present proceeding.

4. I have heard the learned counsel for the parties. The first question to be considered is whether the fresh proceeding commencing on the service of a fresh notice u/s 10 (2) of the Act is maintainable. u/s 31 (3) of the U. P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1976 a provision is made for commencing a fresh proceeding if made within two years from the date of the decision of the prescribed authority made before 10th Oct., 1975. This can be done provided it is made within a period of two years from the date of the order of the prescribed authority. In the present case, the prescribed authority had passed his order determining the surplus area on the 28th Nov., 1974. The fresh notice u/s 10 (2) of the Act was served on the petitioner on 23rd Feb., 1976. Thus, it was within two years from the date of the order of the prescribed authority as envisaged u/s 31 (3) of the Act. The fresh proceeding on the basis of this notice was, therefore, valid and maintainable. The law itself provides for the reopening of the matter and for a fresh determination of the surplus area. Since the petitioner has been served with a fresh notice u/s 10 (2) of the Act. it is open to him to contest the matter before the prescribed authority. The determination of surplus area in that event would be in respect of the fresh notice, I am, therefore, of the view that the proceedings for the determination of surplus land out of which the present writ petition has been filed is no longer maintainable and must be abated. It is no use to continue the present proceeding in view of the commencement of fresh proceedings u/s 10 (2) of the Act. In this view of the matter, it is not necessary to decide any question on the merits except to say that the entire proceedings on the basis of the original notice u/s 10 (2) of the Act stand abated.

5. This writ petition is disposed of accordingly. There will be no order as to costs.