**(1967) 02 MP CK 0008**

**In the Madhya Pradesh High Court**

**Case No :** Miscellaneous Petition No. 26 of 1966

Khushilal APPELLANT

Vs

Board of Revenue Madhya Pradesh and Others RESPONDENT

**Date of Decision :** 03-02-1967

**Acts Referred:**
Bhopal State Land Revenue Act, 1932 — Section 2(15), 2(5), 46, 51, 52(1)

**Citation :** AIR 1967 MP 201 : (1970) ILR (MP) 712 : (1967) JLJ 296

**Hon'ble Judges :** P.V. Dixit, C.J;R.J. Bhave, J

**Bench :** Division Bench

**Advocate :** M.C. Nehlani and K.L. Issrani, for the Appellant; Y.S. Dharmadhikari, for the Respondent

**Final Decision :** Allowed

## Judgement

R.J. Bhave, J.—The respondent No. 5 held Khasra Nos. 948, 950 and 951 (area 31.16 acres) situate at Pul Bogda, Bhopal, as a Muafidar in the erstwhile State of Bhopal. The petitioner was a sub-tenant (a Shikmi) of the respondent No. 5 in respect of the above said land. The petitioner''s case is that under the Bhopal State Land Revenue Act, 1932, the respondent No. 5 was the ''occupant'' of the said land, of which the petitioner was a Shikmi, and hence u/s 185 of the Madhya Pradesh Land Revenue Code, 1959, he became an ''occupancy tenant'' of the land and u/s 190 of the said Code he acquired Bhumiswami rights. The petitioner, therefore, applied before the Tahsil-dar, Huzur, by an application u/s 109 read with S- 190 of the Madhya Pradesh Land Revenue Code for mutation of his name as a Bhumiswami

By an order dated 24th June 1963 the Tahsildar held that the Bhumiswami rights accrued to the petitioner and directed him to deposit compensation equivalent to 15-times of the Land Revenue, on the payment of which he was to he recorded as a Bhumiswami of the holding. The order of the Tahsildar was affirmed, in appeal, by the Sub-Divisional Officer, Huzur, Bhopal, as well as by the Additional Commissioner, Bhopal Division But the Board of Revenue held that the respondent No. 5, being a Muafidar, could not be regarded as an ''occupant'' within the meaning of Section 2(15) of the Bhopal State Land Revenue Act, 1932, and consequently the petitioner did not become an ''occupancy tenant'' on coming into force of the Madhya Pradesh Land Revenue Code. In this view of the matter the Board held that the petitioner could not acquire the status of a Bhumiswami u/s 190 of the Code. The order of the Board of Revenue dated 6th July 1965 has been challenged by the petitioner before us under Article 226 of the Constitution.

2. In the present case, it is an admitted position that the petitioner held the land from the respondent No. 5, who was a Muafidar. If a ''Muafidar'' is included in the definition of an ''occupant'', it is conceded by the respondent No. 5 that the petitioner would become an occupancy tenant u/s 185 of the Madhya Pradesh Land Revenue Code, 1959. The contention, however, is that Muafidars and occupants belong to two different categories and their status is different and that they are treated differently under the Bhopal State Land Revenue Act, 1932, and that a Muafidar cannot be included in the definition of an ''occupant'', even if the definition of ''occupant'' as given in that Act is widely interpreted. The Board of Revenue has expressed this view in the following words:

"The Additional Commissioner has held the applicant (respondent No. 5), although admittedly a muafidar, to be an occupant as he was holding land direct from Government or would do so but for the right of collecting land revenue having been relinquished in his favour I am afraid I cannot agree with the Additional Commissioner in this view of the matter. In the first place if it were intended that there should he no difference or distinction in status between the occupant and a muafidar, there would have been no need for giving a separate definition for the term ''Muafidar'' in the same Act. In Section 2(5) of the Act a muafidar has been separately defined as the holder of alienated land in whose favour the land revenue is relinquished by the Government. Besides, the rights and liabilities of the two classes of land holders at provided for in the Act, are also materially different and point unmistakably to fee fact that they were not intended to be synonymous. An occupant is a tenant of the Government, while a Muafidar is the holder of alienated land."

The Board also supported the above said conclusion by referring to the definition of an ''occupant'' as given in the Bhopal State Sub-Tenants (Of Occupants) Protection Act, 1954. In that Act, in the definition of an ''occupant'' a Muafidar has also been included. The reasoning is that if a Muafidar was included in the definition of an ''occupant'' in the Bhopal State Land Revenue Act, 1932, there was no necessity of specially including a Muafidar in the definition of an ''occupant'' in the Bhopal State Sub-Tenants (Of Occupants) Protection Act, 1954. The Board also relied on Clause (c) of Section 158 of the Madhya Pradesh Land Revenue Code, 1959, which provides for conferral of Bhumiswami rights on an ''occupant'' as defined in the Bhopal State Land Revenue Act, 1932 and thus excludes a Muafidar for conferral of such rights.

 

3. In our opinion, the decision of the Board of Revenue is based on a misapprehension of the provisions of the Bhopal State Land Revenue Act, 1932, and those of the M. P. Land Revenue Code, 1959.

4. u/s 185(1)(iv)(b) of the Madhya Pradesh Land Revenue Code, 1959, every person who, at the coming into force of the Code, held land in the Bhopal Region as a Shikmi from an ''occupant'' as defined in the Bhopal State Land Revenue Act, 1932, is called an ''occupancy tenant'' and is to have all the rights and be subject to all the liabilities conferred or imposed upon an occupancy tenant by or under the Code. An ''occupant'' as defined in the Bhopal State Land Revenue Act. 1932 (Section 2 (15) ) is a person who holds land direct from Government or would do so but the right of collecting land revenue having been assigned or relinquished. In the definition of ''alienated land'' (Section 2 (5) ) the circumstances under which the right to collect land revenue can be assigned or relinquished have been enumerated. The definition of ''alienated land'' is as under:

" ''Alienated land'' means land in respect of which, pursuant to a grant made by His Highness the Ruler, Government has, in whole or in part, assigned or relinquished its right to receive land revenue, and includes such village waste and forest as are mentioned in the sanad of the grant. If the land revenue is assigned, the person to whom such assignment is made is called a ''Jagirdar''. If the land revenue is relinquished, the person in whose favour such relinquishment is made is called ''Muafidar'' ". In the whole of the Bhopal State Land Revenue Act, 1932, as it would appear from further discussion, in case of no other person, apart from a Jagirdar or a Muafidar, any provision has been made for assignment or relinquishment of land revenue. These are the only two categories of persons in whose case the assignment or relinquishment is possible, and it therefore follows that a Muafidar must be included in the latter part of the definition of an ''occupant'' given in Section 2(15) of the Bhopal State Land Revenue Act, 1932. In defining the term ''occupant'' the language used is somewhat involved. But on a proper interpretation of the definition it would appear that it includes persons of two categories, namely, (i) those who directly hold land from the Government with a liability to pay land revenue, and (ii) those who hold land in the State but in whose case the right of collecting land revenue has been assigned or relinquished. We have already pointed out that the only cases in which such assignment or relinquishment is made are those covered u/s 2(5). If the two definitions, namely, the definition of ''alienated land'' and that of an ''occupant'' are read together, along with other provisions of the 1932-Act, no doubt is left that a Muafidar is included in the definition of ''occupant''.

5. The other provisions of the Bhopal State Land Revenue Act, 1932, also support the conclusion reached by us. u/s 46 of the Act. all land to whatever purpose applied is made liable to the payment of land revenue to the Government, except such land as has been wholly exempted from such liability by a special grant of His Highness the Ruler or by a contract with the

 

Government, or under the provisions of any law or rule for the time being in force. The land which is wholly exempted from the liability to pay land revenue by a special grant of His Highness the Ruler is covered under Clause (5) of Section 2 and the person in whose favour there is relinquishment of land revenue is described as a ''Muafidar'' in that section. u/s 51, the Nazim is authorised to dispose of unoccupied land either by a private treaty or by auction. A person to whom a right to occupy the land u/s 51 is granted is described in Section 52(1) as an ''occupant'' Sub-section (2) of Section 52 then provides:

"All persons who, prior to the commencement of this Act, have been entered in settlement records as responsible for the payment of land revenue to the Government, or who, but for a special arrangement, would have been so responsible, shall be deemed to be occupants within the meaning of the section".

This sub-section includes in the definition of an ''occupant'' all those persons who were occupying the land but who because of special arrangement were exempt from the payment of land revenue. Section 53 of the Act is also significant. It provides that Sections 51 and 52 shall not apply to a village site, land situated in the bed of a river, land leased by the Government for purposes other than agriculture, and land granted or leased by the Government for any special purpose on special terms or for the promotion of special or advanced forms of agriculture. This clearly shows that persons occupying all other land except the categories mentioned in Section 53--whether they pay land revenue, or whether they are exempt because of the special direction of the Ruler--are included in the term of an ''occupant''.

This is why the definition of an ''occupant'' as given in Section 2(15) has been made wide enough to include all those persons who hold land from Government but in whose case the right of collecting the land revenue has been assigned or relinquished. From what has been observed earlier, it becomes obvious that a Muafidar, in whose case, prior to the commencement of the 1932 Act, an entry in the settlement records was made also became an occupant as provided for under Sub-section (2) of Section 52. It is not disputed and cannot be disputed that the respondent No. 5 was a person who was entered in the settlement records as a person in whose case because of the special grant from the Ruler the right to recover land revenue was relinquished and was thus a person who would have been responsible for the payment of land revenue but for the special arrangement. It is also significant to note that the ''special arrangement'' contemplated u/s 52(2) does not include the ''special arrangement'' referred to in Section 53 The only arrangement under which land revenue could be relinquished is the grant from the Ruler resulting in the Government relinquishing the right to recover land revenue. For the reasons aforesaid, we are of the view that the Board of Revenue was in error in holding that a ''Muafidar'' was not included in the definition of an ''occupant''.

6. Apart from this, what Section 185 of the Madhya Pradesh Land Revenue Code, 1959, requires is that we must look to the definition of an ''occupant'' as given in

 

the Bhopal State Land Revenue Act, 1932, and nothing more. If the definition is wide enough to include even a Muafidar, that is the end of the matter, and no further enquiry is warranted as to how a Muafidar was treated under the said Act. We have already pointed out that the definition of an ''occupant'' is wide enough to include every person who holds land directly from the Government subject to payment of land revenue or a person who, but for relinquishment of such right by the Government, would have held land from the Government. A Muafidar would obviously be a person who would have been made liable to pay land revenue but for the relinquishment of such right by the Government and he is included in the definition of an ''occupant''

It is an accepted principle of interpretation of statutes that the widest possible interpretation should be put on the words used in a statute unless the context otherwise directs. The Madhya Pradesh Land Revenue Code, 1959, recognises only one type of tenure-holders, namely, that of Bhumiswamis. All those persons who were holding land from the Government under the various Land Revenue and Tenancy Laws operative in the different parts of the State were brought on par under the present Code and were conferred the status of Bhumiswamis u/s 158 of the Code. Under that section Bhumiswami rights have been conferred on the ''occupants'' from Bhopal area as defined in the Bhopal State Land Revenue Act, 1932. It would appear illogical to assume that the Legislature conferred Bhumiswami rights on the holders of land, excepting the Muafidars, when Muafidars from other regions were made tenure-holders. The context of the Act thus requires that the definition of an ''occupant'' should be interpreted liberally so as to include a Muafidar also.

7. We are also of the opinion that the Board of Revenue was in error in referring to the definition of an ''occupant'' as given in the Bhopal State Sub-Tenants (Of Occupants) Protection Act, 1954. It is a settled principle of interpretation of statutes that the expressions used in a statute should be interpreted on the plain language used by the Legislature or, at best, subject to other provisions in the same statute; and a reference to another statute enacted for a different purpose is wholly inappropriate. By the Bhopal State Sub-Tenants Protection Act, 1952, protection from ejectment was conferred on sub-tenants holding land from Jagirdars only. Thus, sub-tenants holding land from others, namely, Muafidars and other occupants were not afforded any protection. To cover their cases, the Bhopal State Sub-Tenants (Of Occupants) Protection Act, 1954, was enacted, and it appears that by way of abundant caution in the definition of an ''occupant'' a ''Muafidar'' was also included. No inference can, therefore, be drawn that in the expression ''occupant'' as defined in the Bhopal State Land Revenue Article 1932, a Muafidar was not included.

8. Shri Dharmadhikari, learned counsel for the respondent No. 5, referred to Chapter XIV of the Bhopal State Land Revenue Act, 1932, and urged that Jagirdars and Muafidars were prohibited from transferring their rights in the Jagir or Muafi and that they were differently treated in certain matters as compared to

 

the ''occupants''. He, therefore, urged that there was no scope for including a ''Muafidar'' in the definition of an ''occupant''. It is no doubt true that in Chapter XIV of the Bhopal State Land Revenue Act, 1932, special provisions have been made prohibiting the Jagirdars and Muafidars from effecting certain kinds of transfers; but in all other matters, they are governed by the provisions made in Chapter XV which are applicable to other holders of land in the State. As special grants were made in favour of Jagirdars and Muafidars, it is quite natural that certain special provisions were made restricting their rights of transfer. From this fact alone no inference can be drawn that the Muafidars are not included in the definition of ''occupants''.

9. For the aforesaid reasons, we are of the view that the Board of Revenue was in error in holding that the petitioner had not acquired occupancy rights u/s 185 of the Madhya Pradesh Land Revenue Code, 1959, and was not entitled to make an application u/s 190 for being recognised as a Bhumiswami on payment of compensation. The petition is, therefore, allowed. The order dated 6th July 1965 passed by the Board of Revenue is quashed and that of the Tahsildar passed on 24th June 1963 is restored. The respondent No. 5 shall pay costs of this petition to the petitioner. Hearing fee Rs. 150. The outstanding amount of the security deposit shall be refunded to the petitioner.