

(1978) 12 AHC CK 0032

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 2711 of 1977

Krishan Lal

APPELLANT

Vs

Addl. District Judge and Sessions Judge, Saharanpur and
others

RESPONDENT

Date of Decision : 08-12-1978

Acts Referred:

Constitution of India, 1950 — Article 226

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

Citation : (1978) 12 AHC CK 0032

Hon'ble Judges : M.P.Mehrotra, J

Final Decision : Dismissed

Judgement

M. P. Mehrotra, J.

This petition arises out of the proceedings under the U. P. Imposition of Ceiling on Land Holdings Act, 1960.

The facts, in brief, are these: The petitioner filed objections in reply to the notice under section 10 (2) served on him. The Prescribed Authority decided the said objections by his order dated 21.11.1976, a true copy thereof is annexure 1 to the petition. Thereafter an appeal was filed, and the same was dismissed by the IVth Additional District & Sessions Judge, Saharanpur by his order dated April 7, 1977, a true copy whereof is annexure 2 to the petition. Now, the petitioner has come up in the instant petition and in support thereof I have heard Shri R. K. Jain, learned counsel for the petitioner. Only one question is involved in this petition and the same relates to three plots which were claimed to be grove by the petitioner. The plots nos. are 42 and 43 and 265. The Prescribed Authority and the appellate court did not accept that the said three plots were grove. On behalf of the petitioner reliance was placed on C. H. Form no. 41 where the plots were mentioned as grove. The appellate court held that the said form did not throw sufficient light as to whether the said plots were grove or not inasmuch as the necessary details were not disclosed from the said document. The Lekhpal's

statement was also not relied on as the same was made with reference to the khasra entries of 1383 Fasli. The appellate court emphasised the important point that there was no sufficient evidence to show that the trees were in existence before 24th January, 1971. In the judgment of Mr. Justice C.S.P. Singh reported in Mahendra Singh v. State (1978(4) A.L.R. 356=1978 A.L.J. 357), it has been emphasised that the said requirement is the crux of the matter, namely, that the trees were in existence on 24th January, 1971. It seems to me that it is a situation where the authorities below were entitled to come to their own finding of fact and no interference is called for in the writ jurisdiction. Learned counsel drew my attention to the judgment of Mr. Justice Faruqul reported in Mohd. Yamin v. State (1978 A.W.C. 793). In the said case the facts were different. The Khasra entries disclosed that a number of trees were there but the Prescribed Authority found that the said trees did not constitute a grove. It was emphasised that in such a situation it would be desirable that a spot inspection should be made. I should like to emphasise here that in the matter of the appraisal of evidence bearing on the questions of fact, no inflexible rule can be laid down by a higher court to be followed by the authorities below. What particular probative value should be placed on a particular piece of evidence in the facts of each case will vary according to such facts and circumstances. In this connection I wish to emphasise the observations of Mr. Justice Krishna Iyer in Rahim Khan v. Khurshid Ahmed (A.I.R. 1975 S.C. 290), that:

"Precedents on legal propositions are useful and binding, but the variety of circumstances and peculiar features of each case cannot be identical with those in another and judgment of Courts on when and why a certain witness has been accepted or rejected can hardly serve as binding decision."

In the circumstances, the petition fails and is dismissed but there will be no order as to costs.