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**(1981) 02 MP CK 0030**

**In the Madhya Pradesh High Court**

**Case No : Miscellaneous Petition No. 1764 of 1975**

Krishna Kumar Agrawal and Others

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

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**Date of Decision : 11-02-1981**

**Acts Referred:**

Constitution of India, 1950 — Article 14, 31A, 31A(1), 31C

Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 — Section 16, 2, 35, 4, 7

**Citation : AIR 1982 MP 162 : (1982) JLJ 693 : (1982) 27 MPLJ 336**

**Hon'ble Judges : G.P. Singh, C.J.; K.K. Dube, J**

**Bench : Division Bench**

**Advocate : Y.S. Dharmadhikari, for the Appellant; M.V. Tamaskar, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

G.P. Singh, C. J.

This order shall also dispose of Misc. Petition No. 747 of 1974.

These petitions relate to the constitutional validity of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960.

The Act as its long title shows was enacted to provide for the imposition of ceiling on agricultural holdings, acquisition and disposal of surplus land and matters ancillary thereto. The Act as originally enacted was assented to by the President on 28th September 1960. The Act was, thereafter, amended eight times. The Amending Acts are Acts Nos. 35 of 1961, 38 of 1965, 25 of 1966, 12 of 1974, 13 of 1973, 20 of 1974, 2 of 1976 and 37 of 1976. The principal Act as also the Amending Acts up to Act No. 20 of 1976, have been inserted from time to time in the Ninth Schedule of the Constitution. In Waman Rao and Others Vs. Union of India (UOI) and Others, , the Supreme Court has ruled that Acts inserted in the Ninth Schedule before 24th April 1973 are protected by Article 31B and cannot be challenged. It was, however, ruled in the same case that amendments to the

Constitution made on or after 24th April 1973 by which the Ninth Schedule to the Constitution was amended from time to time by the inclusion of various Acts and Regulations therein are open to challenge on the ground that they or any one or more of them are beyond the constituent power of Parliament since they damage the basic or essential features of the Constitution or its basic structure. Amending Acts Nos. 12 of 1974, 13 of 1974 and 20 of 1974 which amended the principal Act considerably were enacted after 24th April 1973 and were inserted in the Ninth Schedule thereafter. The amendments brought about by these Acts can, therefore, be challenged on the ground that they damage the basic or essential features of the Constitution or its basic structure. It was, however, further ruled in *Waman Rao's* case that if an Act inserted in the Ninth Schedule on or after Apr. 24, 1973 is saved by Article 31A or by Article 31C as it stood prior to its amendment by the 42nd Amendment, the challenge to the validity of the relevant constitutional amendment by which that Act is put in the Ninth Schedule on the ground that the amendment damages or destroys the basic or essential features of the Constitution or its basic structure as reflected in Article 14, or Article 19 or Article 31 will become otiose. The same ruling upheld the validity of Article 31A and Article 31C (to the extent held valid in *Kesavanand*). In *Waman Rao's* case the Supreme Court rejected the challenge to the Maharashtra Agricultural Land Ceiling Act. Similar challenges directed against other State Acts were also rejected by the Supreme Court: (see *Thumati Venkaiah and Others Vs. State of Andhra Pradesh and Others*, (Andhra Pradesh Act); *Ambika Prasad v. State of U. P.*, : AIR 1980 SC 1762 (U. P. Act); *Seth Nand Lal and Another Vs. State of Haryana and Others*, ; and *Sasanka Sekhar Maity and Others Vs. Union of India (UOI) and Others*, (West Bengal Act). In view of all these decisions, learned counsel appearing in these petitions were faced with a formidable task of arguing these petitions, nevertheless they have argued certain points which we will deal with hereinafter.

It was first contended that the ceiling area fixed by Section 7 of the Act is arbitrary without reference to quality of soil, rainfall, situation, productivity price and other relevant factors and, therefore, it contravened Article 14 of the Constitution. Section 7 classifies agricultural land for ceiling purposes in three categories; (1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops; (2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop; and (3) dry land. Where the holder is not a member of a family, the ceiling limit is ten acres for the land of the first category, 15 acres for the land of the second category and 30 acres for the land of the third category. Where the holder is a member of a family of five members or less, the ceiling limit as related to the three categories of land is 18, 27 and 54 acres respectively. Where the holder is a member of a family of more than five members, the ceiling limit as related to the three categories respectively is : (i) 18 acres plus 3 acres for each member in excess of five subject to the maximum of 39 acres; (ii) 27 acres plus 4.50 acres for each member in excess of five subject to the maximum of 54 acres and

(iii) 54 acres plus 9 acres for each member in excess of five subject to the maximum of 108 acres. A perusal of Section 7 goes to show that the classification of land for ceiling purposes is not arbitrary. The classification is based on the criteria whether the land yields two crops or one crop and whether it is dry land or is receiving assured irrigation. Land yielding two crops would be better than land yielding one crop and similarly, land receiving assured irrigation would be more productive than dry land. It is, therefore, not possible to hold that the classification is unrelated to the quality of soil and productivity. It is true that the classification does not take into account the difference in rainfall and situation, yet, in our opinion, the classification made by Section 7 cannot be held to be arbitrary. It is for the Legislature to consider how best to classify land for ceiling purposes. Unless the classification can be termed as arbitrary or wholly unreasonable unrelated to the object, it cannot be struck down simply on the ground that the Legislature could have made some further classification. Apart from this, as the ceiling Act is a law relating to agrarian reform, it is protected by Article 31A(1)(a). It is also protected under Article 31C as it is a law giving effect to the policy of the States towards securing the principles specified in Clause (b) of Article 39, viz. that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.

It was then contended that the ceiling area fixed is uneconomical and that it cannot give effect to the Directive Principles under Article 39(b). We have already stated the ceiling limit fixed by Section 7. In our opinion, the ceiling area so fixed cannot be said to be uneconomic. No data has been filed by the petitioners in support of this submission.

It was next contended that the definition of family is arbitrary and is violative of Article 14. "Family" is defined in Section 2 (gg) to mean, husband, wife and their minor children. Similar definitions of family have been upheld by the Supreme Court in *Thumati Venkaiah and Others Vs. State of Andhra Pradesh and Others*, and *Nandlal v. State of Haryana* (AIR 1981 SC 2097) (*supra*). In view of these decisions, the contention of the learned counsel cannot be accepted,

It was further contended that fixing of 1st January, 1971, as the date in Section 4 for invalidating transfers made thereafter and before 7th March, 1974 is invalid. Section 4 of the Act empowers the Competent Authority to declare invalid transfers made after 1st January 1971, and before 7th March, 1974 (appointed date) if they were made in anticipation of or to defeat the provisions of the Act. The return filed by the State Government goes to show that in January 1971 the Government announced that it proposed to reduce the ceiling limit further by amending the Ceiling Act. Although the Bill reducing the ceiling area was published in 1972 and Amending Act was enforced from 7th March, 1974, it became known to the land-holders from January 1971, that the ceiling area was likely to be reduced. It is for this reason that Section 4 makes provision for invalidating transfers made after 1st January, 1971, and before 7th March, 1974. In the connection, it may be pointed out that on 24th January 1971 the Congress

Party announced its Manifesto for mid-term elections stating that it was going to have a new agrarian policy reducing the ceiling area. The Congress Party was in power at the centre and in most of the States. The declaration made by the Congress Party was virtually a declaration made by the Government. The Manifesto must have been settled earlier to the date when it was announced and must have become known to some persons before that date. In this connection reference may be made to *Ambika Prasad v. State of U. P.* ( : AIR 1980 SC 1762) (supra) (paragraph 35), where these facts are stated. In this background, it cannot be held that the Legislature arbitrarily fixed the date 1st January, 1971, in Section 4; see *Narbada Prasad v. State of M. P.*, Misc. Petition No. 376/78, decided on the 10th February, 1981 : (reported in *Narbada Prasad Vs. State of Madhya Pradesh and Others*, Provision like Section 4 are necessary to prevent circumventing of the Ceiling Act by the land-holders. Similar provisions have been held to be valid. See *Authorised Officer, Thanjavur and Another Vs. S. Naganatha Ayyar and Others*, and *Sasanka Sekhar Maity and Others Vs. Union of India (UOI) and Others*, . In this connection it was also argued that as Section 4 even invalidates a transfer made to a person having land below the ceiling limit or even to landless or marginal farmers, it cannot be held to be protected by Article 31A. The argument has no merit. The agrarian policy contemplated is acquisition of surplus land and distribution of the same by the State to the needy in the order of priority mentioned in Section 35. The object behind Section 4 is to prevent the defeating of the scheme envisaged by the Act of distribution of surplus land. If land-holders are free to transfer land to persons having no land or having land less than the ceiling limit, it will give rise to all sorts of mal-practices and fraudulent devices to escape the ceiling limit. It cannot, therefore, be said that the provisions made in Section 4 are not conducive to agrarian reform and are not protected by Article 31A.

It was lastly contended that the compensation provided for in the Act for surplus land is illusory as the provisions of the Act are entirely protected by Article 31A and Article 31C, as it stood before the Constitution 42nd Amendment Act, the petitioners have no right to invoke their fundamental right under Article 31.

The petitions fail and are dismissed. There will be no order as to costs. The security amount be refunded to the petitioners.