
(1971) 05 SC CK 0015

In the Supreme Court Of India

Case No : Writ Petition No. 261 of 1968

Latafat Ali Khan and Others

APPELLANT

Vs

The State of U.P.

RESPONDENT

Date of Decision : 06-05-1971

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 6

Citation : AIR 1973 SC 2070 : (1971) 2 SCC 355 : (1971) SCR 719 Supp

Hon'ble Judges : S. M. Sikri, C.J.; P. Jaganmohan Reddy, J.; G. K. Mitter, J.; C. A. Vaidyalingam, J.; A. N. Ray, J

Bench : Full Bench

Advocate : S.C. Agrawala and D.P. Singh, for the Appellant; S.C. Manchanda and O.P. Rana, for the Respondent

Final Decision : Dismissed

Judgement

Sikri, C.J.—This petition under Article 32 has been filed by the three appellants in Civil Appeals No. 2018-2020 of 1968, in which we have just delivered judgment. In this petition the vires of Section 6, Clause (xvii), of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 (U.P. Act 1 of 1961)—hereinafter referred to as the Act—and Rule 4(4) of the U.P. Imposition of Ceilings and Land Holdings Rules, 1961, have been challenged. It is urged that these provisions violate Article 14, 19(1)(f) and (g) and 31(1) of the Constitution. The learned counsel for the State contended that the impugned provisions are protected by Article 31B of the Constitution, as the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 is included in the Ninth Schedule as item 58. The learned counsel for the petitioners, in reply, urged (1) that the impugned provisions have nothing to do with, land reform, and (2) that rules made under the Act do not enjoy the protection of Article 31B. It is admitted that the land in dispute is a 'holding' within Section 3(d) of the Act. The definition reads:

"Holding" means the land or lands held by a person as a bhumidhar, sirdar, asami of Gaon Samaj or an asami mentioned in Section 11 of the Uttar Pradesh.

Zamindari Abolition and Land Reforms Act, 1950, or as a tenant under the U.P. Tenancy Act, 1939, other than a sub-tenant, or as a Government lessee, or as a sub-lessee of a Government lessee, where the period of the sub-lease is co-extensive with the period of the lease."

2. It seems to us that if a statutory rule is within the powers conferred by a section of a statute protected by Article 31B, it is difficult to say that the rule must further be scrutinised under Articles 14, 19, etc. Rule 4(4) seems to us to be a rule which does not go beyond the powers conferred u/s 6(xvii), read with Section 44 of the Act. At any rate, Section 6(xvii) and Rule 4(4) are part of a scheme of land reform in U.P. and would be protected from attack under Article 31A of the Constitution.

3. In the result we hold that Section 6(xvii) and Rule 4(4) are valid. The petition accordingly fails. In the circumstances there will be no order as to costs.