
(1972) 11 BOM CK 0008
In the Bombay High Court
Case No : Spl. C.A. No. 62 of 1969

Mahadeo	Vs	APPELLANT
State of Maharashtra		RESPONDENT

Date of Decision : 24-11-1972

Acts Referred:

Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 — Section 2, 2(1), 2(1), 2(16)

Citation : (1973) MhLj 217

Hon'ble Judges : B.A. Masodkar, J

Bench : Single Bench

Advocate : N. Chandurkar, for the Appellant; V.V. Nath, Hon. Assistant Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

B.A. Masodkar, J.—The petitioner, who is the land-holder, has filed this petition questioning the validity of the order made by the Maharashtra Revenue Tribunal dismissing the appeal preferred by him under the provisions of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act of 1961.

2. The present petitioner filed a return showing the total extent of his land being 165-02 acres obtained by him in a partition in the year 1954.

3. Mainly the objections related to certain lands which were sold between 4-8-1959 to 26-1-1962 and even thereafter to Sukhdeo, Babulal, Kinglya, Mahadeo and Mansing, who had submitted written objections. Admittedly, in the course of the inquiry, it has been found that all these persons are transferees from the petitioners.

4. In the written objections by these transferees, identical plea was raised by each of them that they were on the land as protected tenants since before 1953. But when they were examined in this case, this version in the written objections has been given go-bye and some other period is substituted at the stage of

evidence. Rightly, therefore, the Courts of fact rejected that evidence and held that it was not established that these persons were tenants of the lands.

5. However, the second contention, which is raised on behalf of the petitioner relates to survey No. 18 of mouza Chausala having an acreage of 30.38. The learned advocate appearing for the petitioner strenuously urges that the finding of the Courts below clearly shows that this was uncultivable piece of land not capable for being used for any agricultural purposes and could not, therefore, be treated as land, under the Act. He also relies upon the judgment of this Court in *Keshaorao Raoji v. State of Maharashtra and others* 1969 Mh. L J 165, where certain indication was given relating to the meaning and the definition of the term "land". Before I consider the definition, the evidence in this case may be seen.

6. The land holder petitioner examined his servant and also the guardian. One Kisanrao who was examined as N. A. W. 1 stated that this field was being used for taking out fuel and there are shrubs and little area is covered by grass. In cross-examination, he clearly admitted that in this field cattle graze and there is sufficient grass for the purpose of grazing. N. A. W. 2 Akaji similarly stated that survey No. 18 was being used for taking out fuel, but tried to contradict N. A. W. 1 by stating that no grass for the purpose of grazing is there. In cross-examination, he has admitted that in this field cattle graze and grass grows. N. A. Ws. 3, 4 and 5 Dashrath, Sitaram and Kashinath respectively, did not speak anything about this field. N. A. W. 1 Kisanrao who was the guardian of the land-holder stated that this survey No 18 is fallow and that it is used for taking out fuel. It was not subjected to cultivation. He further stated that grass is not available even for cattle. This was all the evidence with respect to the use of survey No 18. That clearly showed that it was more or less a pasture land and actually cattle graze on it. There is growth of trees in the land from which fuel wood is taken out by the land-holder. The rental of the field is only Rs. 7.07, which clearly shows that the land is of a very low quality.

7. That does not however, absolve the petitioner from establishing that this land is not capable of being used for the purpose of agricultural. The condition of the land as is brought out in the evidence indicates that naturally in some portion grass do grow and cattle graze in the land. Similarly, there is natural growth of trees which is for the last many years subjected to fuel. This itself shows that the land is having soil or earth in which natural growth takes place, apart from growing crops or vegetation, as disclosed by the evidence. Even such a land can conveniently be subjected to the agricultural use. That inference can be drawn from the evidence available on record and the conclusion that survey No. 18 was land appears to be reasonable and proper on the evidence. However, argues the learned counsel that this is not land as defined by the Act. He refers to section 2(1), which defines "agriculture" and section 2 (16), which defines "land" and submits that unless it answers definition of "land", he cannot be deprived of the property under the provisions of this Act. He further submits that to counter the

evidence of the landlord, there is no evidence led by the State nor any inquiry has been made as to the condition of this land and the conclusion reached by the authorities under the Act is on the face of it on the evidence, which is sufficient to reach the conclusion of law.

8. The term "land" has been defined to mean the land and then the Legislature has enacted which land can be included in this definition. The definition by its nature is both indicative as well as illustrative, as it includes certain types of area which would normally not be the land, as such, as the sites of farm, buildings on, or appurtenant to such land ; land on which grass grows naturally ; trees and standing crops on such land ; canals, channels, wells, pipes or reservoirs or other work constructed or maintained on such land for the supply or storage of water for the purpose of agriculture ; drain age-works, embankments, bandharas or any other works appurtenant to such land, or constructed or maintained thereon for the purposes of agriculture ; and all structures and permanent fixtures on such land. The definition thus is a very wide one and being an inclusive definition, has to be construed to include the things which would normally not be the land. The dictionary meaning of the term "land" as given in Stroud's Judicial Dictionary is to the following effect. Though the word "land" anciently meant "whatsoever may be ploughed" and signified "nothing but arable land", yet in and since the time of Lord Coke, and now, it "comprehended" any ground, soil or earth, whatsoever", whether of freehold or copyhold tenure. "Land" or "lands", not only means the surface of the ground, but also everything (Except gold or silver mines) on or over or under it, Lord Coke calls the earth.

9. Dictionary meaning shows that land is equivalent to earth, the solid matter which constitutes the fixed part of the surface of the globe, in distinction from the sea or other waters, which constitute the fluid or moveable part: as, the earth is composed of land and water. Thus, by itself the word "land" which is the subject-matter of definition in section 2 (16) is wide enough to cover all solid ground. However, limitation is indicated by the subject of legislation which is the law for the purpose of imposing a maximum limit or ceiling on Ceilings of Holdings with reference to agricultural land. Therefore, it is reasonable to conceive that the definition requires that the term land, which is a very wide term should be understood with reference to its use, or capacity for use as agricultural land. The term "agriculture" is also defined by providing an inclusive definition. It shows to what particular uses the land may be subjected to apart from growing crops or vegetation. Sub-section (1) of section 2 of the Act says that "agriculture" includes horticulture, the raising of crops, grass or garden produce or singhara, the use by an agriculturist of land held by him, or part thereof, for grazing, the use of any land, whether or not an appendage to rice or paddy land for the purpose of armature, dairy farming poultry farming breeding of live-stock, but does not include the cutting of wood only.

10. That being the position, the use that was spoken of by the witnesses for the landholder cannot be excluded from the term "agricultural" under this Act. It has

not been shown in this case that this land being survey No. 18 was not capable of being used for any of the purposes of agriculture within the meaning of this Act. To say that from survey No. 18 fire-wood is being cut and utilised by the landholder is not to say that the land is not capable for being used for any of the uses of agriculture as known in this country as well as defined by section 2 (1) of the Act

11. This definition of "agriculture" is illustrative enough to include the user of the land for the purposes of grazing cattle. This inclusive definition takes in the original meaning of the term "agriculture" as well as illustrates the several other uses to which such term may apply.

12. Therefore, giving my careful consideration to the submission made by the learned counsel, it appears to me that survey No. 18 has not been shown to be out of the purview of the term land, and, therefore, no interference is called for.

13. This petition, therefore, fails and is dismissed but there will be no order as to costs.