
(1978) 07 AHC CK 0057
In the Allahabad High Court
Case No : Civil Misc. Writ No. 182 of 1978

Maharaj Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 10-07-1978

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 10(2), 4A
Uttar Pradesh Imposition of Ceiling on Land Holdings Rules, 1961 — Rule 3

Citation : (1978) AWC 595 : (1978) RD 278

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

Bench : Single Bench

Advocate : R. Dwivedi, for the Appellant;

Final Decision : Disposed Of

Judgement

M.P. Mehrotra, J.—This petition arises out of the proceedings under the U.P. Imposition of Ceiling on Land Holdings Act. The Petitioner was issued the usual notice u/s 10(2) of the said Act. He filed objections. Inter alia, one of the objections was that among other plots, plot No. 22 of village Dari Khurd and plot No. 613 of village Murafa were wrongly treated as irrigated land. They were Claimed to be unirrigated. The Prescribed Authority and the lower appellate court rejected the said contention of the Petitioner. Hence, he has come up in the instant petition and the contention raised on his behalf by this learned Counsel, Dr. Dwivedi, is that the expression "irrigated land" is not a general term or expression but is in the nature of a term of art inasmuch as Section 4A defines how the land is to be treated as irrigated land wider the aforesaid Act Counsel's contention is that the said section clearly lays down that two Independent conditions must be satisfied before a piece of land can be treated as irrigated. Firstly, it has to be found that irrigation facility was available for such piece of land in respect of any crop in any one of the three Fasli years mentioned in the section, namely, 1378, 1379 and 1380 Fasli. Such irrigation facilities should be shown to be available from the sources which are enumerated in Sub-clauses (i),

(ii) and (iii) of Clause (a) of Section 4A. The second ingredient is that the Prescribed Authority should be of opinion that at least two crops were grown in such land in any of the aforesaid years. It is agreed between the counsel that the other paragraphs in Section 4A can be left out for the purposes of deciding the present controversy. The Prescribed Authority In the instant case passed a very unsatisfactory order. He framed a general issue No. 4 dealing with all the plots which were claimed by the Petitioner to be unirrigated and without discussing the nature of the entries in the relevant records and, in fact, without any discussion worthwhile, he decided the said issue. The lower appellate court in its order says:

Plot No. 22 as per khasra entry of 1377 F. had double crops and source of irrigation is also recorded. So it has been rightly held as irrigated.

2. In respect of plot No. 613, the lower appellate court held it to be irrigated on the basis of the situation as it existed in 1382 F. and 1383 Fasli. But nothing has been said as to the state of Things as existed in 1378, 1379 and 1380 Faslīs. Whether any irrigation facility was available for the said plots in respect of any crop in any one of the three aforesaid years and whether at least two crops were grown in the said plots in any one of the aforesaid three years had to be found as a matter of fact. The learned Standing Counsel states that the khasra entries were not available in respect of the three said years probably on the ground that consolidation operations were going on. He has drawn my attention to Rule 3 of the U.P. Imposition of Ceiling on Land Holding Rules, 1961. The said rule lays down as under:

In areas where due to consolidation operations or record operations or for any other reason no Khasras were prepared during the years mentioned in Section 4A, the Prescribed Authority while examining other records may also examine available khasras for the three latest years preceding the year in which the khasra was not prepared.

3. In my opinion, the said rule cannot be so interpreted so as to dispense with the imperative requirements of Section 4A. In what manner the State has to prove that the requirements laid down in Section 4A stand satisfied or prayed is not for this Court to say. But as it is, the orders passed by the authorities below cannot be allowed to stand and they are hereby quashed. The case is remanded to the Prescribed Authority for dealing with the aforesaid controversy in respect of the said plots Nos. 22 of village Dari Khurd and 613 of village Murafa in accordance with law. It shall be open to the parties to lead further evidence as desired by them in the light of the requirements laid down in Section 4A of the said Act. In the circumstances, costs of this petition shall be easy.