

(1977) 09 AHC CK 0029

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 1384 of 1973

Maharaja Mahipal Singh and others

APPELLANT

Vs

First Temporary Civil Judge, Hamirpur and others

RESPONDENT

Date of Decision : 27-09-1977

Acts Referred:

Constitution of India, 1950 — Article 363A

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

Citation : (1977) 09 AHC CK 0029

Hon'ble Judges : B.N.Sapru, J

Final Decision : Disposed Of

Judgement

B. N. Sapru, J.

This writ petition out of proceeding under the U. P. Imposition of Ceiling on Land Holdings Act, 1960. The petitioner was the ruler of the erstwhile State of Sarila in then Central India States Agency. By an Instrument of Accession dated 5111947 signed by the Ruler and on behalf of the Government of India the State of Sarila acceded to India. Clause 66 of the Instrument of Accession as in the same terms as in the case of other princely States of Central States Agency and read as follows:

"Nothing in this Instrument shall empower the Dominion Legislature to make compulsory acquisition land for any purpose, but I hereby undertake that should the dominion for the purpose of Dominion law which applies to this State deem it necessary to acquire, any land, I will at their request acquire the land at their expense, of it the land belongs to me, transfer it to them on such terms as may be agreed, or in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

By a collateral letter which has been filed as annexure I to the writ petition, the Government of India recognised 219 acres of agricultural "patara" land and 102 acres of agricultural "Kathara" land in village Sarila and 8 acres of agricultural land situate in villages Sarila and (Tachkoora) as private property of the Ruler.

This property was included in the whole of the petitioners by the Prescribed Authority. When proceedings under the aforesaid Act were initiated the petitioner raised the plea that he was the Ruler of the erstwhile State of Sarila which was merged in the Union of India by an instrument of accession dated 5111947 and, as such, he was entitled to the benefit of clause 6 (14) of the Act. Section 6 (14) runs as follows:

"Land held by the ruler of an erstwhile merged State which because of the conditions of the merger between him and the Government of India or the collateral letters appended thereto, cannot be acquired by the State Government without his concurrence".

The petitioner's plea has been negated by the Prescribed Authority and the First "Temporary Civil Judge, Hamirpur. Aggrieved by these orders the petitioner has filed the instant writ petition.

The learned Civil Judge who disposed of the petitioner's appeal has observed as follows:

"It was next contended by the learned counsel for the appellant that he happens to be Ruler of erstwhile Sarila State and consequently, in view of section 6 (xiv) of the U. P. Imposition of Ceiling on Land Holdings Act the provisions of said Act will not be applicable to appellant's land. This contention of the learned counsel for the appellant can, however, be of no avail now, in view of the Constitution (Twenty-sixth Amendment) Act. By this Amendment Act a new Article 363A has been inserted in the Constitution and under clause (a) of this Article the ruler or successor of any such Ruler of Indian States has ceased to be recognised as such Ruler or the successor of such Ruler. The benefit of section 6 (xiv) of the U. P. Imposition of Ceiling on Land Holdings Act can consequently no longer be available to him".

Article 363A of the Constitution was inserted in the Constitution by the Constitution 26th Amendment Act, 1971 which runs as follows:

"363A. Recognition granted to Rulers of Indian States to cease and privy purses to be abolished Notwithstanding anything in this Constitution or in any law for the time being in force:

(a) the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, as recognised by President as the successor of such Ruler shall, on and from such commencement, cease to be recognised as such Ruler or the successor of such Ruler;

(b) on and from the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished and accordingly the Ruler, or, as the case may be, the successor of such Ruler, referred to in clause (a) or

any other person shall not be paid any sum as privy purse".

In the first place, Article 363A provides that the Prince, Chief or other person who, at any time before the commencement of the Constitution was recognised by the President as the Ruler of the Indian State or any person, who at any time before such commencement was recognised by the President as a successor of such Ruler, shall, on such commencement, cease to be recognised as such Ruler or the successor of such Ruler. In other words, no Prince, Chief or any person was to be recognised as a Ruler. That is the effect of subArticle (3) of Article 363A of the Constitution of India. Under subArticle (b) of Article 363A the right to receive privy purse was abolished and all rights, liabilities and obligations in respect of privy purse were extinguished. SubArticle (b) further provides that any person referred to in subclause (a) of Article 363A shall not be paid any sum as privy purse.

The question is whether Article 363A was in the contemplation of the U. P. Legislature when it enacted the U. P. Imposition of Ceiling on Land Holdings Act, 1960. The Legislature used the word "Ruler" in the sense of a Prince of an erstwhile merged State. No amendment had been introduced by the U. P. Legislature under which a person who was a Ruler and who had ceased to be a Ruler in view of Article 363A would lose the benefit of Section 6 (xiv) of the Act. In the light of the above, the order of the First Temporary Civil Judge in Revenue Misc. Appeal no. 3 of 1972 *Maharaj M.P. Singh v. State of U. P.*, dated 21/2/1972 has to be quashed. It has been pointed out by the learned counsel for the petitioner himself that the exemption granted under Section 6 (xiv) has been withdrawn in the year 1973, but certain new types of exemptions have been granted to various categories of persons. It will, therefore, be open to the respondents to initiate fresh proceedings according to law and the authorities will decide it in accordance with the law in force at the relevant time.

In the result, the order of the First Temporary Civil Judge dated 21/2/1972 passed in Revenue Misc. Appeal no. 3 of 1972, *Maharaj M. P. Singh v. State of U. P.*, is quashed, as also the order of the Prescribed Authority dated 15/2/1972, in case no. 41 of 1962 declaring an area of 329 acres of agricultural land situate in village Sarila and Pachkoora, which belonged to the petitioner, as surplus land. The petitioner's possession of the land in dispute shall not be disturbed in pursuance of the aforesaid order of the First Temporary Civil Judge, Hamirpur dated 21/2/1972. There will be no order as to costs.