
(2001) 02 RAJ CK 0007
In the Rajasthan High Court
Case No : Civil Writ Petition No. 855 of 1988

Mathura Lal

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-02-2001

Acts Referred:

Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 — Section 15(2)

Citation : (2001) 4 RLW 554 : (2001) 2 WLC 130 : (2002) 2 WLN 422

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shiv Kumar Sharma, J.—Proceedings for the acquisition of surplus lands initiated against the petitioner under Chapter III-B of the Rajasthan Tenancy Act, 1955 (for. short the "Old Ceiling Law") and the Rajasthan Tenancy (Fixation of Ceiling on Lands) Government Rules, 1963 (for short the "Old Ceiling Rules") were dropped on March 31, 1975. However, the case was reopened in view of Section 15(2) of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (for short the "New Ceiling Law"). Vide order dated January 29, 1986, the Additional Collector Ceiling, Kota (for short the ACC) observed that the standard acres of 84 Bighas of land held by the petitioner were equivalent to 45.81 standard acres and the petitioner was entitled to retain only 40 standard acres, thus 5.81 standard acres of land were declared as surplus. After unsuccessful appeal in the Board of Revenue (for short the BOR) the petitioner has preferred the instant writ petition seeking quashing of the orders passed by the ACC and BOR.

2. I have heard Mr. Sanjay Mehrishi learned Counsel for the petitioner and scanned the reply of the respondents and other material on record.

3. The ACC was to determine the ceiling area and the surplus area afresh after taking into consideration the fact whether the lands of the petitioner's Khatedari

were situated in Chambal Command Area on April 1, 1966 or not. The petitioner in the reply filed before the ACC averred thus--

(i) One bigha and 16 biswas of his Khatedari land was acquired in connection with the digging of the canal and 4 bigha and 13 biswas had been taken in catchment i.e. land development.

(ii) On the appointed day (i.e. on April 1, 1966) there were seven member in the family of the petitioner. Since the lands held by him were not irrigated by canal and the petitioner was entitled to retain 40 standard acres of land in view of number of his family members, the lands held by him were not in excess of the ceiling area applicable to him.

The A.C.C. in the order dated January 29, 1986 held that the lands held by the petitioner situated in villages Champa-ka-Khera and Dhansuri of Tehsil Digod, the villages if first group within the Chambal Command Area as such the standard acres of 84 bighas of land held by the petitioner were equivalent to 45.81 standard acres out of which the petitioner was allowed to retain 40 standard acres only and 5.81 standard acres of lands were declared surplus.

4. Assailing the order of the A.C.C. before the B.O.R. the petitioner contended that the A.C.C. did not deduct the land measuring 4 bigha 13 biswas which had been taken away for the purposes of land development. The A.C.C. took the lands held by the petitioner, situated in Chambal Command Area solely on the basis of Tehsil report without reference to the Annual records of the said lands. The B.O.R. however, did not agree and dismissed the appeal on October 12, 1987.

5. From the material on record it appears that the soil classification of the lands held by the petitioner is enter as Mal III, Bir I Barani II, Barani Soyam III Mal III, Barani I, Jav-Mal III and Mal III in the annual registers that were current on April 1, 1966. Indisputably the said lands could not be taken as "Nehari" and could not be considered under item-I of the Schedule as irrigated.

6. The Division Bench of this Court in Ram Pratap and Ors. v. Sate of Rajasthan and Ors. 1988 (2) RLR 520 indicated that ceiling area is to be computed by converting ordinary acres into standard acres of land in accordance with and in a manner laid down under Rule 19 of the "Old Ceiling Rules" on the basis of assessment circles and crops formed and deemed to have been formed u/s 149 of the Rajasthan Land Revenue Act. 1956. The classification of land is to be taken as it existed on April 1, 1966.

7. Undeniably all lands in Rajasthan are not similarly situated as productive capacity differs from place to place looking to the irrigation facilities and soil condition and other prescribed particulars. Conjoint reading of Sections 148 and 149 of the Rajasthan Land Revenue Act demonstrates that assessment circles have been made on the basis of irrigation facilities, standard of cultivation expenses of cultivation and the cost of cultivator in maintaining himself and his

family, existence of markets in the vicinity of the area means of communication and improvements, size of holding and extent of indebtedness. Standard acres of the holding of a persons have to be calculated strictly as per the principles laid down in Section 30-C of the "Old Ceiling Law" and Rule 19 read with Apendex "A" of the "Old Ceiling Rules" Mere fact that the land is situated in Chamble Command Area by itself is not sufficient to take the said land as irrigated or "Nehari". It can only be taken as Nehari" if it was entered as such in the Annual Registers. If the class of lands is not entered as Neahari in the Annual registers on April 1, 1966 the standard acres of the said lands shall be determined according to the soil classification as entered in the Annual registers current of April 1,1966.

8. Both the courts below have overlooked this legal aspect that the ceiling area is to be computed according to the soil classification entered in the Annual Registers on the appointed date i.e. April 1, 1966 in accordance with the Old Ceiling Law and Rules. Only on the basis of report dated August 11,1985 of the Tehsildar that the lands held by the petitioner were situated in Chambal Command Area and were irrigated by Canal, the standard acres of 84 beghas of land held by the petitioner were declared equivalent to 45.81 standard acres out of which the petitioner was allowed to retain 40 standard acres only and 5.81 standard acres of lands were declared surplus. It also appears from the material in record that the land measuring 4 bigha and 13 biswas taken by the State Government for land development was not considered while allowing deduction.

9. The discussion leads to the in escapable conclusion that the impugned orders are arbitrary and wholly erroneous.

10. Accordingly this writ petition succeeds and is allowed, the impugned orders dated January 29,1986 and October 12,1987 are set aside. The matter is now remitted back to the Additional Collector (Ceiling) Kota for a fresh decision in the light of the observations indicated hereinabove. Till the final decision is reached, status qua as to existing possession as on today in respect of lands in question shall be maintained. The costs shall be borne by the parties throughout as incurred.