(1993) 09 SC CK 0140

In the Supreme Court Of India

Case No : Civil Appeal No. 2696 Of 1980

Nawal Singh APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 07-09-1993

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1990 — Section 5(6)

Citation : (1995) 1 SCC 204 Supp

Hon'ble Judges : M. M. Punchhi, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. IN this appeal against the judgment and order of the High court of Al the only question which survives for consideration is whether the transaction of sale effected by the appellant was in good faith in terms of sub-section (6 of Section 5 of the U.P. Imposition of Ceiling on Land Holdings Act, 1960.

2. FOR a transfer effected after 24/1/1971 to be valid it must be proved to have been made in good faith, for adequate consideration, under an irrevocable instrument, not being a benami transaction, or for immediate or deferred benefit of the tenureholder or other members of his family. Findings have been recorded at one stage or the other that the sale effected by the appellant was for adequate consideration and under an irrevocable instrument, not being a benami trsaction or for immediate or deferred benefit of the tenureholder or other members of his family. These findings have been recorded in the backdrop that the appellant had his holdings in two villages i.e. Sihi and Asawar and that he was residing in Sihi, and had to manage his land at Asawar at a distance of about two and a half miles. Additionally he was an old man of about 65 years of age at the relevant time, had no son to look after him and his only daughter who was married was living elsewhere. In this situation, the appellant thought proper, as is his case, to sell the land at village Asawar for a sum of Rs. 60,000.00 and he

asserts that out of it he transferred a sum of Rs. 35,000.00 to his daughter by way of gift and paid gift tax thereon. These assertions of the appellant have not been countered at any stage. His complete version has been doubted only on the premise that the sale was effected after the crucial date i.e. 24/1/1971 which was reflective of absence of good faith.

3. WE do not at all appreciate the approach of the courts below. If this approach is accepted that no transfer effected after 24/1/1971 can escape, sub-section (6 of Section 5 would be rendered meaningless and a dead letter in the statute. The facts as stated above have been asserted by the appellant clearly and openly. There is nothing on these facts to attract a finding that all what he did was in bad faith. We are satisfied that he has more than ordinarily proved that the transaction of sale was effected in good faith and the approach of the courts below was not in accordance with the spirit of the statute. We thus set aside the impugned orders of the High court as also that of the courts below and hold that the transaction in question was entered in good faith and the land covered by it is not to be reckoned towards computing his holding for ceiling purposes. The appeal is accordingly allowed. No costs.