

(1977) 03 AHC CK 0011
In the Allahabad High Court
Case No : Writ Petition No. 1898 of 1976

Putan Singh and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 26-03-1977

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 5

Citation : (1977) AWC 656

Hon'ble Judges : Hari Swarup, J

Bench : Single Bench

Advocate : P.L. Misra, for the Appellant;

Final Decision : Dismissed

Judgement

Hari Swarup, J.—This petition has been filed for a writ in the nature of certiorari quashing the order of the Prescribed Authority and the appellate authority under the U.P. Imposition of Ceiling on Land Holdings Act. The Petitioners' father was a land-holder. He filed objections to the land being declared surplus. Objections were decided by the Prescribed Authority on 10-1-1975. He went up in appeal. The appeal was partly allowed and relief was granted on the basis of the tenure-holder having a family of seven persons including the two Petitioners. Thereafter the original tenure-holder Ram Pratap Singh died. The present Petitioners then approached the Prescribed Authority for change of the order so that they may now get more land on the basis of their being independent units. The objections were not entertained as they were not shown to be maintainable under any provision of law.

2. The Petitioners have now filed this petition for getting the two orders mentioned above quashed and for a writ in the nature of mandamus to restrain the Respondents from dispossessing the Petitioners. The contention of the learned Counsel is that after the death of the original tenure-holder the ceiling area should be re-determined treating it as holding of the present Petitioners. I here is no merit in the contention because the ceiling area has to be determined

as it exists on the relevant date. Section 5 of the Act provides the relevant date. If on that date a tenure-holder has a family including his children, then he would get allowance for them in determining the ceiling area. This was done in the present case. The Petitioners thus got the benefit by being members of the family of the tenure-holder, their Lather. The Petitioners could inherit from their father only such land which their father was entitled to get under the Act. As their father was not entitled to get the surplus land, it could not be inherited by the Petitioners. The present Petitioners thus could not have any legal right in the land which was declared surplus land of their father.

3. The petition is accordingly not maintainable and is dismissed with costs.