
(1996) 09 MP CK 0099
In the Madhya Pradesh High Court
Case No : M.P. No. 2750 of 1989

Ramnath and Another	Vs	APPELLANT
Mst. Bhagan Bai and Others		RESPONDENT

Date of Decision : 17-09-1996

Acts Referred:

Madhya Pradesh Samaj Ke Kamjor Vargon Ke Krishi Bhumi Dharakon Ka Udhar Dene Walon Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976 — Section 10, 13, 18, 3, 4
Madhya Pradesh Samaj Ke Kamjor Vargon Ke Krishi Bhumi Dharkon Ko Udhar Dene Walon Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti Rules — Rule 1(2), 3

Citation : (1997) 2 JLI 238

Hon'ble Judges : A.K. Mathur, C.J.;Shahi Kant Kulshreshtha, J

Bench : Division Bench

Advocate : M.M. Agarwal, for the Appellant; Sanjay Seth, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Kulshrestha, J.—The two Petitioners have challenged, by this petition, vires of Section 10 of the M.P. Samaj Ke Kamjor Vargon Ke Krishi Bhumi Dharkon Ko Udhar Dene Walon Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976 (hereinafter referred to as the Adhiniyam) as also the order Annexure P-10 passed thereunder by the Respondent No. 5 (The Sub Divisional Officer, Rajnandgaon) and order Annexure P-11 passed in appeal by the Respondent No. 4 (The Collector, Rajnandgaon).

2. The Adhiniyam was enacted for the benefit of the holders of agricultural land in the weaker section of people by providing relief from agricultural indebtedness by nullifying the licences of the lenders of money for grabbing their lands and the matters connected therewith. Section 3 of the Adhiniyam gives overriding effect to the provisions of the Act and Section 4 makes all prohibited transactions of loan to be subject to protection and relief in accordance with the provisions of the Adhiniyam." "Prohibited transaction of loan"" has been defined in Section

2(f) to be a transaction in which money lender advances loan to a holder of agricultural land against security of his interest in land. Under the various modes set out thereunder, including outright sale of land with a distinct oral understanding that the sale shall not be acted upon if the loan is re-paid. Section 5 of the Adhiniyam makes provision for application by a holder of agricultural land who is a party to any transaction of loan subsisting on the appointed day or entered into thereafter to the Sub Divisional Officer within such time and in such form and manner as may be prescribed for protection and relief under the Adhiniyam. Rules have been framed in exercise of the powers conferred by Section 18 of the Adhiniyam and Rule 3 sets out a form in which application can be made u/s 5 of the Adhiniyam within the period specified from the date of the enforcement of the Rules.

3. The Respondent No. 1 made an application against the two Petitioners as also the Respondents 2 and 3, who were subsequent transferees of land, in the prescribed form under the provisions of Section 5 of the Adhiniyam on 9.1.1984 and proceedings were initiated under the Adhiniyam. After following the procedure prescribed, the Respondent No. 5 found that the transaction pertaining to the sale of land was a prohibited transaction and, accordingly, set aside the transfer of land under the sale-deed in question and directed restoration of possession of land to the Respondent No. 1 vide order Annexure P-10. The Petitioners filed an appeal u/s 8 of the Adhiniyam which was dismissed by order Annexure P-11, and hence the Petitioners have challenged the said two orders as also vires of Section 10 of the Adhiniyam creating bar for appearance of the legal practitioners in proceedings under the Adhiniyam. The learned Counsel for the Petitioners did not press to the challenge to the vires of Section 10 of the Adhiniyam in view of the decision of this Court in *Chhedilal v. State of M.P.* 1984 J.L.J. 206 : 1984 M.P.L.J. 128 upholding the validity of the said provision. However, the learned Counsel vehemently argued that since application in prescribed form was not within the limitation laid down by Rule 3 of the Rules, the Respondent No. 5 (The Sub Divisional Officer, Rajnandgaon) had no jurisdiction and consequently, the order passed by the Respondent No. 5 (Annexure P-10) and the order passed in appeal by the Respondent No. 4 i.e. the Collector, Rajnandgaon (Annexure P-11) were illegal and without jurisdiction.

4. Section 5 of the Adhiniyam makes a provision for an application to the Sub Divisional Officer within such time and in such form and manner as may be prescribed. Rules were framed in exercise of the powers conferred by Section 13 of the Adhiniyam and notified vide Notification No. 1641 -6-77-N-I- VII dated 25.4.1978 and published in M.P. Rajpatra, Part IV (Gaz.) dated 12.5.1978. Rule 3 in its original form prescribed a period of 12 months from the date specified in Sub-rule (2) of Rule 1 for making application u/s 5 of the Adhiniyam. Sub-rule (2) of Rule 1 refers to the enforcement of the rules on the date of their publication in the "Madhya Pradesh Gazette" and since rules were published in the Gazette dated 12.5.1978, initially the period of one year commenced from the said date. However, by Notification No. 577-6-1-V-I-VII-81 dated 21.2.1981

published in the Gazette dated 13.3.1981, the said Rule 3 was substituted and it was provided that the application u/s 5 of the Adhinyam shall be made in form I to the Sub Divisional Officer on or before 31.1.1982. The figure "1982" was subsequently substituted by figure "1983", by Notification dated 14.7.1982 published in M.P. Rajpatra I dated 30.7.1982 and later by figure "1984" by Notification dated 31.1.1983 published in M.P. Rajpatra (Asadharan) dated 6.2.1983. On account of these legislative changes in the rules, the limitation was extended from time to time and by last Notification aforesaid, the rule permitted application u/s 5 of the Adhinyam upto 31.1.1984. The application filed by the Respondent No. 1 on 9.1.1984 was, therefore, quite within the period prescribed in this behalf, and we find no merit in the contention of the Petitioners. It appears that it was for this reason that plea of limitation was not raised before the Respondents 4 and 5 nor in the present petition.

5. In the result, we find no merit in the petition and it is, accordingly, dismissed but with no order as to costs. Security amount, if any, shall be refunded to the Petitioners.