
(1979) 03 AHC CK 0067
In the Allahabad High Court
Case No : CMW No's. 1481 and 1590 of 1977

Satya Pal Singh

APPELLANT

Vs

The State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 05-03-1979

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 10(2), 29, 38B

Citation : (1979) 03 AHC CK 0067

Hon'ble Judges : Satish Chandra, C.J.;Yashoda Nandan, J

Bench : Division Bench

Judgement

Satish Chandra, C.J.—A learned single Judge has referred the following question of law to a larger Bench:

Whether the reduction in area brought about by the consolidation proceedings in the holding of a tenure-holder after June 8, 1973 can be taken into account while determining the ceiling area applicable to him on the said date?

2. It appears that the Petitioner held 48 Bighas 1 Biswa 10 Biswansis area in his holdings when proceedings under the U.P. Consolidation of Holdings Act commenced on March 31, 1973. On commencement of the U.P. Imposition of Ceiling on Land Holdings Act, a notice u/s 10(2) of that Act was issued to the Petitioner. The Petitioner filed objections saying that by now proceedings under the Consolidation of Holdings Act had been completed and an area of 42 Bighas 5 Biswas 10 Biswansis alone had been allotted to his chak. He clarified that the plots allotted to his chak were entirely different from the plots of which he was the original tenure-holder. The ceiling authorities, however, ignored the reduction in area as a result of reallocation of chaks in proceedings under the U.P. Consolidation of Holdings Act. They proceeded to determine the ceiling area of the Petitioner on the basis that he continued to hold 48 Bighas 1 Biswa 10 Biswansis of land.

3. In Jhandoo v. State of Uttar Pradesh 1977 AWC 318, a learned single Judge

held that the prescribed authority has to determine that a tenureholder did not hold any land in excess of the ceiling area after June 8, 1973. It was incumbent upon them to take notice of the events that may have happened subsequently, for instance, under the Consolidation of Holdings Act and to give effect to the reduction in area caused thereby in a tenure-holder's holding. In other words, it was held that if the area of the tenure-holder is reduced as a result of the proceedings under the U.P. Consolidation of Holdings Act, then the ceiling authorities should take that into account and calculate the ceiling area in the surplus land on that basis.

4. Another learned single Judge felt that these observations in Jhandoo's case 1977 AWC 318, (supra) were rather too wide. He mentioned in the referring order an illustration that the reduction in area may be as a result of the valuation made under the U.P. Consolidation of Holdings Act because of which the tenureholder may be entitled to a lesser area than originally held by him. In such a case, the variation will be more apparent than real and so there can be no justification for making allowance in such a case. In this case also, the reduction in area took place as a result of valuation of the land originally held by the Petitioner and of the land subsequently allotted to him. It appears that higher valuation land was allotted to the Petitioner and so the area obtained by him was lesser.

5. This result is due to operation of law. The proceedings under the Consolidation of Holdings Act are based upon the system of valuation of land prescribed by that Act. The proceedings under the Ceiling Act are founded on area. The system of valuation provided by the Consolidation of Holdings Act is not recognized by the Ceiling Act for determining the ceiling area as prescribed by the Ceiling Act. The method of calculation given in the Ceiling Act alone has to be followed. The burden of the Ceiling Act is that after June 8, 1973 no tenure holder should continue to possess more than the ceiling area. u/s 29 of the Ceiling Act, there is a specific provision for adjustment of ceiling area in case the tenure-holder acquires some more land. It is implicit in the provision that if because of operation of law the tenure-holder's holding gets reduced, that also should be taken into account. The reduction must be one which is valid in law.

6. Section 38-B of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 provides:

No finding or decision given before the commencement of this section in any proceeding or on any issue (including any order, decree or judgment) by any court, tribunal or authority in respect of any matter governed by this Act, shall bar the re-trial of such proceeding or issue under this Act, in accordance with the provisions of this Act as amended from time to time.

7. A finding or decision given, before Section 38-B came into force on October 10, 1975 (the date of enforcement of U.P. Ordinance No. XXXI of 1975) are, for purposes of Ceiling Act, not final. They can be reopened and the question

involved in it, retried. But, in a case where no retrial takes place, the finding or decision is binding. Further, Section 38-B implies-that findings or decisions given in any proceeding in any court, tribunal or authority will be binding upon the authorities under Ceiling Act, if they are given after October 10, 1975. This clearly leads to the conclusion that the decisions of the authorities under the U.P. Consolidation of Holdings Act are valid and are to be recognised in proceedings under the Ceiling Act, subject of course, to the effect of Section 38-B as explained above. In this view, it is evident that Prescribed Authority under the Ceiling Act while determining the ceiling area of a tenure-holder cannot shut its eye or ignore the decisions given in proceedings under the Consolidation of Holdings Act.

8. Learned Counsel invited our attention to a Full Bench of this Court in Ram Charan Vs. State of U.P. and Others, . At the end of judgment, an illustration with reference to Section 29 of the Ceiling Act was dealt with. But that has no bearing upon the position as obtaining in the present case. The Full Bench was concerned with the reverse case, namely, where consolidation proceedings commenced after the completion of the proceedings under the Ceiling Act. Here, we are concerned with the problem of Ceiling Act proceedings commencing while consolidation proceedings are going on and before the completion of proceedings under the Ceiling Act, final orders had been passed under the Consolidation of Holdings Act. This position is not dealt with in the aforesaid decision.

9. We, therefore, answer the question referred to us in the affirmative. Let the reference be returned to the appropriate learned single Judge with this opinion and answer.