
(1981) 01 AHC CK 0003

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 2296 of 1980

Sheo Ram

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-01-1981

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 17

Citation : (1981) AWC 167 : (1981) RD 59

Hon'ble Judges : R.M. Sahai, J

Bench : Single Bench

Advocate : Vishnu Sahai, for the Appellant;

Final Decision : Allowed

Judgement

R.M. Sahai, J.—This petition is directed against the order passed by the Und Additional District Judge, Bulandshahr, dated 7-9-1979, dismissing the appeal filed by the Petitioner, against determination of compensation u/s 17 of the U.P. Imposition of Ceiling on Land Holdings Act (hereinafter referred to as the Act).

2. Admittedly, 19 bighas, 14 biswas and 11 biswancies was declared as surplus land. The Petitioner claimed compensation on market rate. This, obviously, was incorrect and the Prescribed Authority rightly repelled the contention. But after repelling the contention, the Prescribed Authority was required to determine the compensation as required by section 17 read with Schedule I of the Act. In his order, he has not recorded any finding regarding the land revenue which was payable by the Petitioner for the land in dispute. In appeal, the Petitioner claimed that his land revenue has been reduced by Rs. 103.35 p. This contention was not examined as the Petitioner had not raised this in his objection. The appellate authority committed an error of law in not recording a clear finding on the land revenue payable in respect of the land in dispute. While determining the compensation u/s 17, it is not for the tenure-holder to claim but it is the duty of the Prescribed Authority to calculate the compensation in accordance with provisions and procedure provided u/s 17 and Rules framed thereunder. As none

of the authorities appear to have applied their mind on the provision of law, nor is it clear what was the land revenue payable by the Petitioner, the orders cannot be maintained.

3. In the counter affidavit, however, it has been stated that the compensation has been calculated in accordance with the explanation to Schedule I. This explanation applies to barren land, it appears that the land has been taken to be barren because at the time of taking possession, no crop was standing over it. This was obviously erroneous. The word "barren" so far as the U.P. Zamindari Abolition and Land Reforms Act is concerned, carries a technical meaning. If a plot of land was fallow in a particular year or no crop was sown on it, it could not be taken as barren. The method, therefore, applied by the Prescribed Authority in calculating the compensation was not correct.

4. In the result, this petition succeeds and is allowed. The order passed by the Additional District Judge is quashed. He is directed to decide the appeal afresh.

5. He shall permit the Petitioner to raise the objection of dismutation of land revenue. He shall determine the compensation after recording the finding that what was the land revenue of petitioner's land. In case there is no evidence on record, he shall permit the parties to file relevant evidence in this regard. As pointed out earlier, it is the responsibility of the Prescribed Authority and, therefore, primarily it is for the State to bring on record the documents from which the land revenue of the Petitioner could be ascertained. The Petitioner shall be entitled to costs.