

(2001) 08 DEL CK 0127
In the Delhi High Court
Case No : Suit No. 1655/88

Shri Ram Singh and Others		APPELLANT
	Vs	
Union of India and Others		RESPONDENT

Date of Decision : 21-08-2001

Acts Referred:

Delhi Land Reforms Act, 1954 — Section 185
Land Acquisition Act, 1894 — Section 11, 30, 31, 4

Citation : (2001) 94 DLT 788 : (2001) 60 DRJ 708

Hon'ble Judges : Vinod Sagar Aggarwal, J

Bench : Single Bench

Advocate : Mr. V.K. Sahni, for the Appellant;

Final Decision : Dismissed

Judgement

V.S. Aggarwal, J.—plaintiffs are the sons of Shri Bahadur. They have filed the present suit for a declaration that details and order of Shri G S Dhaka, Additional District Judge, Delhi dated 16th May, 1986 so far as it holds that bhoomidari rights granted to Shri Bahadur are incorrect and plaintiffs are not entitled to compensation, should be declared to be null and void. A consequential relief is prayed to pay to the plaintiffs the compensation of the land to the plaintiffs.

2. The facts alleged are that plaintiffs claimed they are the heirs of Shri Bahadur while defendants 4 to 8 are the heirs of Prem Chand. Earlier there was a joint khatta of 314 bighas 6 bids was which constituted 72 parts. Prem Raj was adopted by Hira Singh. Prem Chand filed a civil suit and in appeal it was held that Prem Chand was not the adopted son of Shri Rugan. On basis of a will he was declared to be the successor of Shri Rugan. It was Therefore held that sons of Shri Bahadur had been declared to be bhumidar and civil court has no jurisdiction to annul bhumidari rights.

3. After coming into force of the Delhi Land Reforms Act there were two types of tenures, namely Bhumidars and Assamis. Shri Bahadur was accordingly declared

a bhumidar of the land. Prem Chand challenged the bhumidari rights of Shri Bahadur before the Revenue Court but his objections and appeals were dismissed. A notification was issued u/s 4 of the Land Acquisition Act. It was further followed by a notification. The land in question was acquired. Shri Bahadur, the predecessor in interest of the plaintiffs filed the claim. The Land Acquisition Collector gave a supplementary award and awarded a sum of Rs.1,48,140.06. Simultaneously he forwarded the same under Sections 30 and 31 of the Land Acquisition Act to the Additional District Judge, Delhi. Before Land Acquisition Court (Addl. District Judge, Delhi) Shri G.S. Dhaka was the presiding officer. The plaintiffs had filed their objections. Issues were framed and it was held that plaintiffs were not entitled to the compensation. They were not the bhumidars or in other words the bhumidar rights conferred on Shri Bahadur were wrong.

4. The grievance of the plaintiff is that the Additional District Judge, Delhi had no jurisdiction to cancel the bhumidar rights because only the Revenue Courts can entertain such a controversy. On these broad facts the present civil suit has been filed.

5. Notice had been issued to defendants but they have been proceeded ex parte. In support, of his claim the plaintiffs led the ex parte evidence on basis of the affidavit.

6. The short question agitated has been as to if the order passed by the learned Additional District Judge whereby it had been adjudicated that predecessor in interest of the plaintiffs did not have the bhumidar rights, is without jurisdiction or not.

7. Learned counsel for the plaintiffs relied upon the decision of the Supreme Court in the case of Hatti Vs. Sunder Singh, to contend that the civil court has no jurisdiction to entertain a suit in view of Section 185 of Delhi Land Reforms Act.

8. In order to appreciate the controversy reference can well be made to the relevant portions of the decision in the case of Hatti (supra). Indeed the Supreme Court held that jurisdiction of the civil court is barred u/s 185 of Delhi Land Reforms Act. The findings returned are:

"6....The jurisdiction of the civil court is clearly barred by section 185 of the Act read with the various items of the First Schedule mentioned above. If a Bhumidar seeks a declaration of his right, he has to approach the Revenue Assistant by an application under item 4 while, if Gaon Sabha wants a clarification in respect of any person claiming to be entitled to any right in any land, it can institute a suit for a declaration under item 28, and the Revenue Assistant can make a declaration of the right of such person....."

9. Later on the Supreme Court went on to hold that if question of title arises, the Revenue Court can refer the matter to the civil court but civil court cannot entertain the suit directly. It was held in paragraph 7:

"7. On the contrary, Section 186 envisages that questions of title will arise before the Revenue Courts in suits or proceedings under the First Schedule and, only if such a question arises in a competent proceeding pending in a revenue court, an issue will be framed and referred to the Civil Court. Such a provision does not give jurisdiction to the Civil Court to entertain the suit itself on a question of title. The jurisdiction of the Civil Court is limited to deciding the issue of title referred to it by the Revenue Court. This clearly implies that, if a question of title is raised in an application for declaration of Bhumidari rights under item 4 of Schedule I of the Act, that question will then be referred by the Revenue Assistant to the Civil Court; but a party Assistant to the Civil Court, but a party wanting to raise such a question of title in order to claim Bhumidari right cannot directly approach the Civil Court...."

10. The decision of the Supreme Court Therefore show that the civil court cannot entertain a suit to declare that bhumidar rights granted to a particular individual is wrong or not, but a reference can certainly be made to it. u/s 30 of the Land Acquisition Act when amount of compensation has to be delivered u/s 11 and if disputes arises as to apportionment of the same, the Collector can refer the dispute to the decision of the court. Admittedly, in the present case the reference had been made by the Collector to the Civil court. In other words, the civil Court had not entertained the suit directly. It only adjudicated as to who is the bhumidar or not to apportion the compensation. Thus the decision of Shri G S Dhaka, Additional District Judge, Delhi is not hit by the rigours of the decision in the case of Hatti (supra).

11. There is another way of looking at the matter. During the course of submission learned counsel for the plaintiff admitted that against the decision of Shri G S Dhaka, Addl. District Judge, Delhi an appeal had been preferred in this court and had been dismissed. In that event, the judgment of the learned Additional District Judge merged into judgment of this court. The plaintiffs have not cared to challenge the judgment of this court to be without jurisdiction and necessarily result would be that the declaration claimed cannot be granted. In that event Therefore it can be termed that plaintiffs have not been able to show that the judgment of the learned Additional District Judge in the peculiar facts was without jurisdiction.

12. For these reasons the suit being without merit must fail and is dismissed.