
(2014) 12 AHC CK 0190

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 46601 of 2014

Sitaram Sugar Company Ltd.

APPELLANT

Vs

Commissioner Gorakhpur Division and Others

RESPONDENT

Date of Decision : 04-12-2014

Acts Referred:

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

Citation : (2015) 2 ADJ 506 : (2015) 127 RD 408

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : R.C. Singh and B.K. Srivastava, Advocates for the Appellant; Deo Prakash Singh, Raju Ratan Chauhan and P.K. Jain, Advocates for the Respondent

Judgement

Anjani Kumar Mishra, J.—Heard Sri R.C. Singh, learned counsel for the petitioner-company, Sri P.K. Jain, learned Senior Advocate, who appears for respondent No. 6 as well as Sri Sanjai Goswami for the State-respondents. This writ petition arises out of proceedings under the U.P. Imposition of Ceiling on Land Holdings Act (for short, the Act") and is directed against the orders dated 15.5.2014, passed by the Commissioner, Gorakhpur Division, in an appeal, and the order dated 28.1.1994, passed by the Prescribed Authority.

2. It appears that a notice under Section 10(2) of the Act against the petitioner gave rise to Case No. 149/208 under Section 10(2) of the Act. On the receipt of the notice, the petitioner is alleged to have filed an objection stating therein that the company was possessed of 77.31 acres of farm-land. The Prescribed Authority by the order dated 13.5.1977 declared 57.60 acres as surplus. The consequential appeal filed by the petitioner was allowed on 17.3.1991, and the matter was remanded back for a fresh decision. Thereafter, the company was acquired under the U.P. Sugar Undertaking Acquisition Act, 1971 (hereinafter referred to as "the Act of 1971").

3. It is the case of the petitioner that the agricultural farmland of the petitioner was not acquired and that only the plant and machinery was acquired.

4. The Prescribed Authority by its order dated 28.1.1994 dropped the consolidation proceedings against the petitioner on the ground that the entire assets, including the land of the petitioner, had been acquired under the U.P. Sugar Undertaking Acquisition Act, as noted hereinabove. The appeal filed against this order was dismissed on 15.5.2014, holding that since notice under Section 10(2) had been discharged by the Prescribed Authority, the appeal of the petitioner was not maintainable. Hence this writ petition. Hence this writ petition.

5. The crux of the submissions made by the learned counsel for the petitioner is that the agricultural farmland in the name of the petitioner-company was never acquired, and that such land is still the agricultural holding of the petitioner.

6. Sri P.K. Jain, learned senior Counsel, on the other hand, has hotly disputed the contention of the learned counsel for the petitioner. He has submitted that the entire assets of the company, including the so-called agricultural farmland, was acquired. He has further produced the copy of the judgment passed in Writ Petition No. Nil of 1994: M/s. Sri Sitaram Sugar Company Ltd. v. U.P. State Sugar Corporation Ltd. and another.

7. A perusal of the said order indicates that the petitioner-company had instituted the writ petition aforementioned seeking a writ of mandamus directing the respondents not to sell the agricultural land of the petitioner, having an area of 71.10 acres, situated in six different villages. The relevant portion of this judgment is quoted hereinbelow:

"Suffice it to say that U.P. State Sugar Corporation Ltd.'s Information Package filed as Annexure-10 to this petition, specifically demonstrates that the land alongwith other assets including Farm-land was acquired in the year 1989 and its ownership vested in U.P. State Sugar Corporation. It further gives the details of the land acquired. It also states the total land acquired as 109.42 acres, of which 38.32 acres is the factory land and 71.10 acres is the Farm-land. Description of the Farm-land is also there village wise.

This being so, in the opinion of this Court, prima facie no case is made out for grant of the relief as sought for.

The petition has no merit and is accordingly dismissed at the admission stage without issuing notice to the other side."

8. In rejoinder, learned counsel for the petitioner, Sri R.C. Singh, has submitted that the proceedings in this regard are pending before the competent authority, constituted under the U.P. Sugar Undertaking Acquisition Act, 1971, and that the disposal of this writ petition be deferred till such time the issues regarding compensation, etc. are decided by the said competent authority.

9. Upon hearing the learned counsel for the parties, and upon perusal of the record, it clearly emerges that the only issue involved in the writ petition is as to whether or not the alleged farmland of the petitioner was acquired under the U.P. Sugar Undertaking Acquisition Act.

10. The case of respondent No. 6 is that the entire assets, including the farmland, were acquired and that the said respondent No. 6 has purchased the same from the U.P. State Sugar Corporation and is in possession thereof. It also emerges that the Prescribed Authority dropped the ceiling proceedings on the contention of the Sugar Corporation that the entire land of the petitioner-company had been acquired.

11. The appellate authority, namely, the Commissioner, respondent No. 1, has dismissed the appeal with a categorical finding that since the Prescribed Authority had dropped the ceiling proceedings, the petitioner was not aggrieved and could not maintain an appeal against the said order.

12. Learned counsel for the petitioner has not been able to point out any illegality in so far as this reasoning of the appellate authority is concerned, and his only submission is that the writ petition should be kept pending till such time the proceedings under the Sugar Undertaking Acquisition Act are decided.

13. In my considered opinion, any dispute as regards the acquisition under the Act of 1971 or payment of compensation for such acquisition is beyond the scope of this writ petition which arises out of ceiling proceedings. The authorities under the U.P. Imposition of Ceiling of Land Holdings Act are not competent to determine any such dispute, and for this reason, there is no question of keeping this writ petition pending awaiting decision of such the proceedings under the U.P. Sugar Undertaking Acquisition Act. In fact, it will be an exercise in futility. Even otherwise, in view of the judgment and order dated 21.4.1996, passed in WP No. NIL of 1994, relevant extract whereof has been reproduced hereinabove, I am of the considered opinion that there is absolutely no dispute that even the alleged farmland of the petitioner-company was acquired under the U.P. Sugar Undertaking Acquisition Act in 1989, and this is all the more reason while there is no justification for keeping the writ petition pending.

14. Since the petitioner-company ceases to be the owner of the alleged farmland, the ceiling proceedings were rightly dropped and the order affirmed by the appellate Court, respondent No. 1, and for the same reason, I find no merit in the writ petition. The writ petition is wholly devoid of merits and is accordingly dismissed.