
(2010) 10 AHC CK 0119
In the Allahabad High Court
Case No : C.M.W.P. No. 2075 of 1986

Sohanvir Singh and Others	Vs	APPELLANT
1st Addl. District Judge and Others		RESPONDENT

Date of Decision : 27-10-2010

Acts Referred:

Limitation Act, 1963 — Section 5
Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 10(2), 11, 12, 13, 13(2)
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 229B

Citation : (2011) 112 RD 1

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Proceedings u/s 10(2) of the U.P. Imposition of Ceiling On Land Holdings Act, 1960 (herein after referred to as the Act, 1960) were initiated against one Sujan Singh, Respondent No. 3 culminating in an order of the Prescribed Authority dated 27.12.1974 wherein certain area of land was declared as surplus.

2. Not being satisfied Sujan Singh filed Ceiling Appeal No. 105 of 1975. The appeal was partly allowed under order dated 19.04.1978. It was held that Sujan Singh had 3.14 acres of land as surplus. In terms of the order of the Appellate Authority, the Prescribed Authority specified the plots of land from which surplus land was to be taken possession of. This order also included plot No. 230. At this stage of the proceedings the present Petitioners instituted Suit No. 69 of 1978-79 against Sujan Singh claiming declaration of title over plot No. 230 u/s 229-B of the U.P.Z.A.& L.R. Act, before the Sub-Divisional Magistrate by virtue of their long possession. The said suit has been decreed in the year 1979. The suit was contested by Sujan Singh. Amongst others it was specifically stated in the written statement that the land in question was declared as surplus in ceiling proceedings. Despite the aforesaid, the Court concerned proceeded to decree the

suit and directed that the name of the Petitioners may be recorded over plot No. 230 total area 16 Bighas and that necessary correction be made in ceiling form No. 4-A. The name of Bhajan Singh and Sujan Singh be deleted and the name of the Petitioners be recorded over plot No. 230. On the strength of such a declaration obtained by the Petitioners, they filed objections before the Prescribed Authority. The objection so raised have been rejected by the Prescribed Authority under the order dated 30.8.1982. Not being satisfied, the Petitioners filed an Appeal which was allowed and the matter was remanded to the Prescribed Authority for reconsideration of the objections along with the application u/s 5 of the Limitation Act.

3. On demand the Prescribed Authority again rejected the objections vide order dated 28.2.1984. Not being satisfied the Petitioners filed an appeal which has also been dismissed. Hence this petition.

4. I have heard learned Counsel for the parties and have gone through the records of the present writ petition.

5. From the facts on record, it is apparently clear that the ceiling limits of Sujan Singh were determined finally under an order of the Appellate Authority dated 19.4.1978 whereunder it was held that he had 3.14 acres of land as surplus. The order passed on an appeal u/s 13 of the Act, 1960, has been granted finality as per Section 13(2) which reads as follows:

13. Appeals.--

13(2) The [Commissioner] shall dispose of the appeal as expeditiously as possible and his decision thereon shall be final and conclusive and be not questioned in any Court of law.

6. In view of the aforesaid finality attached to an order passed in an Appeal by the competent authority, it is not open to the Petitioner to ask or for any authority to issue a declaration of title u/s 229-B of the U.P.Z.A. & L.R. Act qua the land in question. Any order to the contrary would be in teeth of Section 13(2) of the Act, 1960 and, therefore, will be of no consequence.

7. This Court may refer to Section 14(3) of the Act, 1960 wherein it is provided that the Collector shall at any time take possession of the surplus land determined under Sections 11, 12 and 13 and all rights in respect of the properties, the possession whereof is so taken by the Collector shall cease and the property shall vest in the State Government.

Section 14(3) of the Act, 1960 reads as follows:

14. Acquisition of surplus land.--

14(3) Where the Collector has taken possession of any surplus land or un-gathered crops or fruits of trees under Sub-section (1) or Sub-section (2), such land, crops or fruits of trees shall, with effect from the date of his taking possession, stand transferred to and vest in the State Government free from all

encumbrances and all rights, title and interests of all persons in such land shall, with effect from such date, stand extinguished.

8. What follows from Sections 13 and 14 of the Act, 1960 is that once the possession is taken by the Collector of surplus land, after the final order of the Appellate Authority, then all rights, title and interests of any person in such land shall, with effect from such date, stand extinguished.

9. In view of the aforesaid any suit filed by the Petitioners for declaration in the year 1978 which has been decreed on 7.7.1979 i.e. subsequent to the passing of the final order will not be of any consequence.

10. This Court may also consider the reasons recorded in the order passed by the Authorities for rejecting the objections raised by the Petitioners.

11. The Prescribed Authority in his order dated 28.2.1982 has held that the prayer made in the application filed by the Petitioner was for quashing the order dated 19.1.1979 when on record there exist no such order. It has then been recorded that in the application made for condoning the delay, it has been stated that the Petitioners could obtain knowledge of the order only on 30.10.1981 when the Lekhpal and Kanoongo visited the land in question. However, no evidence has been led for substantiating the said allegation. The Appellate Court also recorded that there exist no order dated 19.1.1979 although there was an order dated 18.1.1979 on record. The Appellate Court has held that from the order passed by the Assistant Collector in proceedings u/s 229-B of the U.P.Z.A. & L.R. Act, it is apparently clear that it was specifically stated on behalf of recorded tenure holder in his written statement that the land has already been declared as surplus which was filed in 1978-79. Therefore, the contention of the Petitioners that they became aware of the ceiling proceedings in the year 1981 cannot be accepted. It has been held that the Petitioner at least became aware of the ceiling proceedings in 1979 but has chosen to file the application after more than 2 years thereafter. It has further been recorded that the impugned declaration is referable to Section 5(6) of the Ceiling Act and since the declaration has been made subsequent to 24.01.1971, it cannot be taken into account.

12. From the facts of the case it is apparently clear that the suit for declaration was filed in the year 1978-79 i.e. after the ceiling limits were determined by the Prescribed Authority. The suit has been decreed subsequent to the appellate order being passed by the Appellate Authority u/s 13(2) of the Act, 1960. The Petitioners were made aware of the ceiling proceedings through the written statement in the suit in the year 1979 itself, yet they did not participate in the ceiling proceedings. The Petitioners for the reasons best known to them did not choose to contest the proceedings before the ceiling authority and permitted the same to become final.

13. Writ petition lacks merit and is accordingly dismissed.

14. Interim order, if any, stands discharged.