

(1981) 08 AHC CK 0043

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 8444 of 1980

State of U.P.

APPELLANT

Vs

Addl. Distt. Judge and Others

RESPONDENT

Date of Decision : 05-08-1981

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 6(1)

Citation : (1981) AWC 847

Hon'ble Judges : M.P. Mehrotra, J

Bench : Single Bench

Advocate : S.C, for the Appellant; S.D. Pathak, for the Respondent

Final Decision : Dismissed

Judgement

M.P. Mehrotra, J.—This petition is by the State and it arises out of the proceedings under the U.P. Imposition of Ceiling on Land Holdings Act.

2. The brief facts are that the Respondent No. 3 claimed exception from the ceiling law u/s 6(1)(f) of the Act. The controversy was raised in an earlier writ petition in this Court, and a learned Judge of this Court disposed of the writ petition by his judgment dated 22-8-1978, a true copy whereof is Annexure 3 to the writ petition. The case was remanded to the Prescribed Authority for deciding the said controversy in the light of the observations made in the judgment. Thereafter, the case was heard by the Prescribed Authority and it was held that the said tenure-holder was not entitled to the benefit of the said provision namely, Section 6(1)(f) of the Act. The Prescribed Authority thereafter, dealt with the question about the land being irrigated or unirrigated and ultimately held that 1.95 acres of irrigated land was liable to be declared as surplus and it was so declared. Thereafter, an appeal was filed and the same was allowed by the appellate Court by its judgment dated 9-7-1980, a true copy whereof is Annexure 5 to the petition. Thus surplus land was reduced from 1.95 acres to 0.53 acre.

3. Now the State has come up in the instant petition and in support thereof, I have heard the learned Standing Counsel. In opposition, Sri S.D. Pathak learned Counsel for the tenure-holder has made his submissions.

4. The learned Standing Counsel contended that after the remand order was passed by this Court in the earlier writ petition the Prescribed Authority and the Appellate Court should have considered only one controversy, namely, whether the tenure-holder was entitled to the benefit of Section 6(1)(f) of the Act and no other controversy should have considered. In my view, this contention is untenable. On the earlier occasion, the tenure-holder was raising the plea that the Ceiling Act was not applicable to it as it was a public trust of the kind mentioned in Section 6(1)(f) of the Act and therefore, no ceiling proceedings should have taken place. Since this controversy went to the root of the matter, there was no occasion to raise or canvass other controversies involved in the ceiling proceedings such as whether some land was wrongly treated as irrigated. The learned Judge, who decided the writ petition, therefore, had no occasion to deal with any other controversy and directed that so far as the aforesaid controversy about the liability of the tenure-holder to be proceeded against in the ceiling law was considered the same should be decided in accordance with the observations made in his judgment. However, this did not mean that the other controversies which had not been raised or considered, should not have been allowed to be raised before the Prescribed Authority and thereafter before the Appellate Court.

5. In this view of the matter, I reject the contention raised on behalf of the State and the petition is hereby dismissed but there will be no order as to costs.