

(1985) 01 AHC CK 0012

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 5555 of 1983

State of U.P.

APPELLANT

Vs

Lt. General K.B. Mehta and Another

RESPONDENT

Date of Decision : 22-01-1985

Acts Referred:

Constitution of India, 1950 — Article 226
Urban Land (Ceiling and Regulation) Act, 1976 — Section 1, 1(2), 2, 3, 6
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Constitution of India, 1950 — Article 226
Urban Land (Ceiling and Regulation) Act, 1976 — Section 1, 1(2), 2, 3, 6

Citation : (1985) AWC 265

Hon'ble Judges : S.D. Agarwala, J

Bench : Single Bench

Advocate : G.L. Tripathi, for the Appellant; A.K. Yog, for the Respondent

Final Decision : Dismissed

Judgement

S.D. Agarwala, J.—This is a petition under Article 226 of the Constitution of India arising out of proceedings under the Urban Land (Ceiling and Regulations) Act, 1976, hereinafter referred to as the Act. Lt. Genl. K.B. Mehta Respondent No. 1 filed a statement u/s 6 of the Act in respect of his properties before the Competent Authority (Urban Land Ceiling), Meerut. Respondent No. 1 had two properties in new Delhi and one in Meerut. The competent authority by his order dated 24th July, 1982 declared 1680.44 square meters of land as surplus. This order of the competent authority was challenged by Lt General K.B. Mehta before the appellate court. The appeal came up for hearing before the District Judge, Meerut who by his order dated 5th February, 1983 allowed the appeal and held that there was no land with the Respondent No. 1 which could be declared as surplus. Aggrieved the State of U.P. has filed the present petition challenging the order of the District Judge, Meerut dated 5th February, 1983.

2. I have Heard the learned Standing Counsel for the Petitioner and Shri A.K.

Yog, learned Counsel for Respondent No. 1, Lt. General K.B. Mehta.

3. The only point urged by the learned Standing Counsel is that since the son of the Respondent No. 1 did not become major on 17th February, 1975, which should be taken as the relevant date, the land which came to the share of the son of Respondent No. 1 should have been clubbed with the Respondent No. 1 and as such the judgment of the appellate court was manifestly erroneous.

4. It is not disputed that the elder son of Respondent No. 1 Sunil Mehta was born on 10th January, 1958. He became major on 10th January, 1976. In case the relevant date is taken as 17th February, 1975, then of course the share of Sunil Mehta had to be clubbed with the land belonging to Respondent No. 1. In case, however, the relevant date is taken as 17th February, 1976, then Sunil Mehta was also 18 years one month and seven days on that date and as such the land belonging to him could not be clubbed with the land of the Respondent No. 1 as he had become a major.

5. Section 1 Sub-clause (3) of the Act provides that the Act shall come into force in the States of Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Orissa, Punjab, Tripura, Uttar Pradesh and West Bengal and to all the Union territories at once. The Act received the assent of the President on 17th February 1976 and was published in the Gazette of India Extraordinary on that very date. In the circumstances, so far as the States mentioned above are concerned, the Act came into force on 17th February, 1976. Lt. Genl. K.B. Mehta had properties in Meerut and Delhi. Meerut is a part of Uttar Pradesh and Delhi is a part of Union territories. In the circumstances both for Meerut as well as for Delhi the date of commencement of the Act is 17th February, 1976.

6. Section 3 of the Act lays down that except as otherwise provided in this Act, on and from the commencement of this Act no person shall be entitled to hold any vacant land, in excess of the ceiling limit, in the territories to which this Act would apply under Sub-section (2) of Section 1. In view of this Section it is clear that no person either in Uttar Pradesh or in the Union territories was entitled to hold the vacant land in excess of the ceiling limit with effect from 17th February, 1976 which is the date of the commencement of this Act. In the circumstances the relevant date for the purposes of determining whether a person has excess land or not, is 17th February, 1976. If a son of a person who has filed statement u/s 6 of the Act becomes a major prior to 17th February, 1976, the share of the said son cannot possibly be included in the holding of the said person as under the definition of "family" given in Section 2(f) of the Act, the major son is not included. In view of the "above, the position is that since Sunil Mehta became major on 10th January, 1976 before the commencement of this Act, i.e. 17-2-1976, the share of Sunil Mehta could not be clubbed with that of Respondent No 1. The view taken consequently by the District Judge is in accordance with law.

7. In the result the petition fails and is accordingly dismissed but in the

circumstances of the case the parties are directed to bear their own costs.