
(2009) 04 AHC CK 0069
In the Allahabad High Court

State of U.P.and another

APPELLANT

Vs

Sri Jagmohan Kapoor and others

RESPONDENT

Date of Decision : 23-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0069

Hon'ble Judges : Rajiv Sharma, J

Judgement

Rajiv Sharma, J.

Heard learned counsel for the petitioners.

Brief facts of the petitioners' case is that the writ petition arises out of the ceiling proceedings, which were initiated initially against the original tenure holder/opposite party No.2. The dispute is only confined to the choice in respect of plot No. 839 area 3.65 acre and plot No. 840 area 0.57 acre situate in village Bharuwala Grant, District Dehradun. In response to a notice, the original tenure holder preferred objections and the the Prescribed Authority rejected the said objections by means of the order dated 5.5.1986 declaring the land of 4.22 acres as surplus. After rejection of the objections by the Prescribed Authority, one Sri Jagmohan Kapoor filed objections, who is claiming rights and title over the land in dispute on the basis of the sale deed dated 30.7.1989. In the objections, he said that the land purchased by him be left and the area which has been declared as surplus can be taken from other holdings of Jagmohan Kapoor. The appellate authority remanded the matter to the Prescribed Authority with a direction for considering the choice of the original tenure holders. Being aggrieved by the said action, the instant petition has been filed.

Undisputedly, under the provisions of the Imposition of Ceiling on Land Holdings Act, choice can be exercised by the original holders as to which land is to be declared surplus and as the choice for determining the land in surplus has not been considered, the Appellate Authority has rightly remanded the matter to the Prescribed Authority for determining the choice of land which has been declared

surplus.

In view of above, I do not find any illegality or infirmity in the order passed by the Appellate Authority remanding the matter to the Prescribed Authority, which is impugned in the instant writ petition.

Accordingly, the writ petition is dismissed. However, the Prescribed Authority, after affording opportunity of hearing to all the parties concerned, will pass appropriate orders, in accordance with law. The surplus area, which has already been declared, shall not be disturbed, subject to the consideration of the choice.