(1959) 02 MP CK 0030

In the Madhya Pradesh High Court

Case No : Rev. Application No. 27/58

Thakur Mehtab Singh APPELLANT

Vs

State RESPONDENT

Date of Decision : 14-02-1959

Acts Referred:

Madhya Bharat Abolition of Jagirs Act, 1951 — Section 29

Citation : (1959) MPLJ 835

Hon'ble Judges : Raghu Raj Singh, President;K.L. Pancholy, Member

Bench : Division Bench

Advocate : P.L. Inamdar, for the Appellant;

Final Decision : Allowed

Judgement

This is an appeal u/s 29 of the Madhya Bharat Abolition of Jagirs Act, 1951, against the Jagir Commissioner''s order dated 24-5-57. The order of the Jagir Commissioner is attacked on the following grounds:

(a) Nazrana Arazi amounting to Rs. 8,280 is not included under Siwai Jama as required by Sub-clause (g) of Clause 2 of Schedule I of the Madhya Bharat Abolition of Jagirs Act.

(b) A sum of Rs. 190-3-3 representing Amdani Bid Nilam has not been included in the gross income.

(c) A sum of Rs. 584 representing the price of trees sold by the Jagirdar has been inadvertently omitted and should have been included under the forest revenue vide Sub-clause (c) of Clause 2 of Schedule I.

(d) 30 per cent, of the net income have been deducted as administration expenses instead of 22 1/2 per cent.

The last objection was withdrawn when it was pointed out that 30 per cent, of the net income is less than 22 1/2 per cent, of the gross income and that the deduction is in accordance with Clause 4 of Schedule I.

The argument of the learned Counsel appears to be that the Jagir Commissioner had no discretion to question the entries recorded in village papers for the basic year. The Jagir Commissioner should have relied on the records as prepared by the Court of Wards in which Rs. 8,260 representing income from Nazrana Arazi is shown as Siwai Jama. In our opinion this view is incorrect. Merely recording an item of receipt under the head Siwai Jama does not make it so. The Jagir Commissioner is competent to question the correctness of the entries in the village papers. Sub-clause (g) of Clause 2 of Schedule I reads as follows:

Siwai Jama Income as recorded in village papers for the basic year excluding income from quarries and forests.

This would mean that the Jagir Commissioner is bound by the figures recorded as Siwai Jama income in village papers and he cannot challenge the quantum of Siwai Jama income as recorded. But he is certainly competent to question whether a particular item of income is Siwai Jama income or not.

The next question for decision, therefore, would be what is Siwai Jama income. Siwai Jama income has been defined under Clause 123 of Settlement Manual of former Gwalior State and includes income from sale of trees, (excluding mango and Mahua trees) grass, fish, fire-wood, Singhara, etc. Income from Nazrana Arazi does not fall under any one of these categories and must, therefore, be excluded from Siwai Jama. This objection is therefore overruled.

The second objection regarding the exclusion of Rs. 190-3-3 representing sale of Bid (grass) must for the reason stated in the foregoing paragraph be included in Siwai Jama income.

The third objection regarding Rs. 584 representing the sale price must for the same reason be excluded from the gross income because in the statement prepared by the Jagir Commissioner the income is shown as the sale price of mango trees.

The net result is that objections (a) and (c) are disallowed and objection (b) is allowed. The appeal succeeds partially and the Jagir Commissioner''s order in question is modified accordingly.