
(2007) 04 AHC CK 0252
In the Allahabad High Court

Yashpal Singh

APPELLANT

Vs

State of Uttar Pradesh and The Additional Commissioner,
Meerut Division

RESPONDENT

Date of Decision : 19-04-2007

Acts Referred:

Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1976 —
Section 31

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 — Section 10(2)

Citation : (2007) 5 ADJ 430 : (2007) 3 AWC 2775 : (2007) 102 RD 839

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Tarun Agarwala, J.—Heard Sri Vinod Kumar Rai, the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

2. In proceedings u/s 10[2] of the U.P. Imposition of Ceiling on Land Holdings Act, 1960, the prescribed authority passed an order dated 30.12.1974, declaring two bighas, 7 biswa and 12 biswansi of land as irrigated surplus land. By a notification dated 29.9.1975 issued u/s 14 [41 the surplus land was acquired by the State authorities. After a lapse of nearly nine years, a notice u/s 13-A dated 14.10.1983 was issued by the respondents alleging that on account of a mistake in the earlier notice dated 30.12.1974, certain plots of land could not be included and therefore, the respondents directed the petitioner to show cause as to why the earlier order be not rectified and further the land be not declared as surplus. The petitioner filed his objections and submitted that the proceedings cannot be re-opened u/s 13-A. The prescribed authority accepted the contention of the petitioner by its order dated 14.5.1984 and held that no further surplus land could be declared against the petitioner. The State, being aggrieved by the aforesaid order, filed an appeal which was allowed by an order dated 19.1.1987. The petitioner, being aggrieved by the said order, has filed the present writ petition.

3. For facility, Section 13-A, Section 14[1][b] and Section 14 [4] being the relevant provisions under consideration, are being quoted hereunder:

13A. Re-determination of surplus land in certain cases -

[1] The Prescribed Authority may, at any time, within a period of two years from the date of notification under [subsection 41 of Section 141 rectify any mistake apparent on the face of the record:

Provided that no such rectification which has the effect of increasing the surplus land shall be made, unless the prescribed authority has given notice to the tenure-holder of its intention to do so and has given him a reasonable opportunity of being heard.

[2] The provisions of Section 10, 11, 12, 12A, 13, 14[15 and 16] shall mutatis mutandis apply in relation to any proceedings under sub-section (1), and for purposes of application of Section 10, the notice under the proviso to sub-section (1), shall be deemed to be a notice u/s 9.

14. Acquisition of surplus land-[1] The Collector shall at any time after-

[b] in case, where no appeal has been preferred u/s 13, the date of expiry of the period of limitation provided therefor;

14.[4] The Prescribed Authority shall, as soon as may be after the date mentioned in clause (a), clause (b) or clause (c), as the case may be, of subsection (1), notify in the Official Gazette every surplus land determined under this Act, or u/s 9 of the U.P. Imposition of Ceiling on Land Holdings(Amendment) Act, 1974 or u/s 31 of U.P. Imposition of Ceiling on Land Holdings(Amendment) Act, 1976.

4. The learned Counsel for the petitioner further invited the attention of the Court to the provisions of Section 31 [3], [4] and [5] of the U.P. Act No.20 of 1976 which are quoted hereunder:

31. Transitory provisions-

[1] ...

[2] ...

[3] Where an order determining surplus land in relation to a tenure holder has been made under the principal Act before the tenth day of October, 1975, the Prescribed Authority (as defined in the principal Act) may, at any time within a period of two years from the said date, re-determine the surplus land in accordance with the principal Act as amended by this Act, whether or not any appeal was filed against such order and notwithstanding any appeal (whether pending or decided) against the original order of determination of surplus land.

[4] The provisions of Section 13 of the principal Act shall mutatis mutandis apply to every order redetermining surplus land under sub-section (3) of this section or

Section 9 of the U.P. Imposition of Ceiling on Land Holdings(Amendment) Act, 1974.

Provided that the period of thirty days shall, in the case of an appeal against the order referred to in Section 9 of the U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1974, be computed from the date of such order or October 10, 1975, whichever is later.

[5] The provisions of Section 13-A of the principal Act shall mutatis mutandis apply to every redetermination of surplus land under this section or Section" (9) of this section or Section 9 of the U.P. Imposition of Ceiling on Land Holdings(Amendment) Act, 1974.

5. From a perusal of the aforesaid provisions, it is clear that a mistake apparent on the face of the record or redetermination of the surplus land could be determined afresh u/s 13A of the Act, provided, it is made within two years from the date of the notification under sub Section [4] of Section 14. In the present, case the notification under sub-Section [4] of Section 14 was issued on 29.9.1975 and the surplus land had also been acquired. On the other hand, the notice u/s 13-A was issued on 14.10.1983 almost after nine years from the date of the issuance of the notification under sub-Section [4] of Section 14.

6. In Devendra Nath Singh [Dead] by LRs and Ors. v. Civil Judge, and Ors. 2000 RD 28 SC held that it was no longer open to the prescribed authority to reopen the matter after 4wo years from the date of the notification under sub Section [4] of Section 14 to rectify any mistake apparent on the face of the record. The aforesaid judgment was relied upon by the learned Single Judge of this Court in State of U.P. Vs. Kunawar Bharat Singh and Others, Similar view was held in State of U.P. Vs. Dev Karan and Others, and in Abdul Haeem and Ors. v. Prescribed Authority, Mawana, Meerut and Ors. 2007[3] ADJ 374.

7. In view of the aforesaid, this Court is of the considered opinion that the period of two years mentioned u/s 13-A, being mandatory, no application can be filed for rectification or for redetermination of the surplus land after the expiry of two years from the date of the notification issued under sub-Section [4] of Section 14 of the U.P. Imposition of Ceiling on Land Holdings Act, 1960.

8. In the present case, the notification u/s 14[4] was issued whereas the notice u/s 13-A was issued after nine years which could not have been issued after the expiry of the period. Consequently, the entire proceedings initiated u/s 13-A was wholly illegal and without jurisdiction. Consequently, the impugned appellate order cannot be sustained and is quashed. The writ petition is allowed.