

Inayat Ali Khan

Vs

State of U. P.

And

Ghayyur Ali Khan

Vs

The State of U. P.

And

Latafat Ali Khan

Vs

The State of U. P.

Civil Appeals No. 2018-2020 of 1968

(CJI S. M. Sikri, B. Bhargava, G. K. Mitter, C. A. Vaidialingam, A. N. Ray JJ)

06.05.1971

JUDGMENT

SIKRI, C.J. -

1. These appeals by special leave raise a common question as to the interpretation of Section 6, clause (xvii) of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 (U.P. Act 1 of 1961) - hereinafter referred to as the Act - and can conveniently be disposed of together. In Writ Petition 261 of 1968 the vires of this provision is challenged. This writ petition was heard along with these civil appeals and will be disposed of by a separate judgment.

2. In order to appreciate the point a few relevant facts in the case of Civil Appeal No. 2018 of 1968 may be given. On receipt of a notice under Section 10(2) of the Act the appellant, Inayat Ali Khan, filed objections. He is a horse-breeder. One objection was that he has a specialised farm and certain plots were being used for growing grass or for growing special types of crops which were used as fodder for horses. He relied on Section 6(xvii) of the Act, which reads as follows :

"6. Exemption of certain land from imposition of ceiling - Notwithstanding anything contained in this Act, land falling in any of the categories mentioned below, shall not be taken into consideration for the purposes of determining the ceiling area applicable to, and the surplus land of, a tenure-holder -

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(xvii) land, other than land used for purely agricultural purposes, included in specialised farm and exclusively devoted to poultry farming or dairying or other such purposes, as may be prescribed :

Explanation. - Land for the purposes of this clause shall include land, exclusively used by the tenure-holder for growing of fodder for purposes of his dairy."

A rule was framed exempting certain farms, and it reads as follows :

"4(4) The following land, included in specialised farms and exclusively devoted for purpose of sericulture, ericulture, lacculture or pisciculture shall, to the extent mentioned below, be exempt under clause (xvii) of Section 6 :

(i) land under actual plantation of mulberry, castor and lac-host trees - Kusum, Khari, Palas and Ber - which constitute a grove,

(ii) land on which buildings necessary, for the rearing of worms or insects producing silk, Andi or lac, as the case may be, and for preparation of raw silk, Andi and lac, are situate, and

(iii) land, not less than one acre in area, which is covered with water throughout the year and has been used for pisciculture for a continuous period of three years duly certified as such by an officer of the Fisheries Department, not below the rank of an Inspector :

Provided that the land to be exempted under items (i) and (ii) above is justifiable with reference to the production of raw silk, Andi or lac during a series of years, not exceeding three."

3. The Prescribed Authority. Tahsil Sadar, held that the exemption claimed was not sustainable. The Additional district Judge, on appeal, concurred. He observed :

"The word 'and' in clause (xvii) of section 6 makes it clear that for purposes of exemption, it is necessary that the land should be used for specialised farm and should be exclusively devoted to growing such articles or for such purposes as are specified in clause (xvii) and in Rule 4. It cannot, therefore, be said that because this land is being used for growing a particular type of crop it will come under the definition of specialised farming. In the Explanation, appended to clause (xvii), a case of growing fodder has been referred to. This Explanation says that the land used for growing fodder for purposes of dairy will be exempted. This explanation will, therefore, make it clear that the land used for growing fodder for other purposes will not come under the definition of specialised farming."

4. The appellant filed a revision before the High Court. S. N. Singh, J., held that the lower appellate court had correctly interpreted the section. The appellant having obtained special leave, the appeal is now before us for disposal.

5. The learned counsel for the appellant urged that the word 'and' in sub-clause (xvii) should, in the context, be read as 'or', and that all specialised farms used for non-agricultural purposes are entitled to exemption. We see no force in the contention. The sub-clause specially mentions two types of specialised farms, namely, those devoted to poultry farming and dairying. As regards others it leaves

them to be prescribed by rules under Section 44 of the Act. In this context it is impossible to read the word 'and' as 'or'. Rule 4(4) prescribes those specialised farms, but farms used for horse-breeding are not included. We agree with the interpretation placed by the High Court.

6. In the result Civil Appeal No. 2018 of 1968 fails. The facts in the other two appeals are similar. These must also fail. There will be no order as to costs.

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