State of Gujarat

Vs

Gujarat Revenue Tribunal and Others

Civil Appeal Nos. 1804, 1805 and 1968 of 1970

(V. R. Krishna Iyer, N. L. Untwalia JJ)

09.03.1976

JUDGMENT

UNTWALIA J.

1. These three appeals by special leave arise out of a common judgment of the Gujarat High Court and in them are involved some common questions of law as to the interpretation of certain provisions of the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 - Bombay Act No. XXXIX of 1954 - hereinafter referred to as the Act or the Jagirs Abolition Act. The three appeals have been heard together and are being disposed of by this judgment.

2. On coming into force of the Act on and from August 1, 1954 the jagirs of the jagirdars were abolished and certain properties comprised in the jagirs vested in the State. The jagirdars filed before the Collector applications for award of compensation under the Act in respect of certain properties. The Jagir Abolition Officer authorised to act as the Collector under the Act awarded some compensation to the jagirdars in respect of some items of the properties, refused in respect of some and made his award on July 30, 1963. The jagirdars (which expression would include their heirs also) filed an appeal under Section 16 of the Act before the Gujarat Revenue Tribunal, Ahmedabad. The tribunal modified the award of the Jagir Abolition Officer in some respects and disposed of the appeal on December 2/3, 1964. Two special civil applications under Article 227 of the Constitution of India were filed in the High Court from the decision of the revenue tribunal - one by the jagirdars and the other by the State of Gujarat. The High Court has disposed of the two applications by a common judgment dated August 27/28, 1969, decide some points against the jagirdars and some against the State and remanded the case to the revenue tribunal for a fresh decision in the light of the judgment. Feeling aggrieved by the decision of the High Court in the two special civil applications, the State of Gujarat has preferred Civil Appeal Nos. 1804 and 1805 of 1970 on grant of special leave by this Court. The jagirdars also obtained special leave and filed Civil Appeal No. 1968 of 1970.

3. Under Section 3 of the Act on and from the appointed date i.e. August 1, 1954 all jagirs were deemed to have been abolished. Section 5 provided as to who were to be the occupants of certain types of lands in a proprietary jagir village. Similarly Section 6 referred to the persons who were to be the occupants in lifetime jiwai jagir. The rates of assessment were to be fixed under Section 7. Section 8 provided for the vesting of the properties enumerated therein the State Government and the extinguishment of the rights of the jagirdars thereunder. Section 9 deals with right to trees and Section 10 refers to mines or mineral products. Section 11 provides of compensation to jagirdar and Section 12 makes provision compensation to lifetime jiwai jagirdars. The method of awarding compensation to jagirdar is indicated in Section 13 and the method of awarding compensation for

abolition etc. of rights of other persons in the property is provided in Section 14. Section 15 makes applicable provisions of the Land Acquisition Act, 1894 in the making of an award.

4. In the High Court the concerned jagirdars challenged the order of the revenue tribunal in respect of 8 matters enumerated in its judgment. The State challenged the decision of the tribunal in regard to 3 matters only. In these appeals we were not called upon to decide the correctness of the High Court's judgment in regard to each and every item. In argument the points of controversy were confined only to a few on either side. On behalf of the State Mr. S. T. Desai at the end of his argument endeavoured to challenge the decision of the High Court directing the award of some compensation for the bhatha lands in the river beds and the trees in certain other lands but eventually could not press these points by advancing any argument of substance. It is, therefore, not necessary for us to deal with these two items in any detail. We merely uphold the order of the High Court in this regard.

5. On behalf of the State the strenuous attack was on the question of compensation for unbuilt village site lands, award of solatium of 15% on the amount of compensation and award of interest on the amounts of instalments the payment of which was delayed. Mr. V. M. Tarkunde, appearing for the jagirdars, followed by Mr. D. V. Patel, appearing for some of the intervener-jagirdars attacked the decision of the High Court to three counts :

> (1) that the expression three multiples occurring in sub-section (2) of Section 11 of the Act means at least six times of the assessment and not three times as held by the High Court;
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> (2) that bagayat kas forms part of the assessment fixed for the land within the meaning of sub-section (2) of Section 11 and in awarding compensation under the said provision of law the amount of bagayat kas was erroneously excluded from the assessment;
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> (3) that the revenue tribunal had neither any power nor was it justified in reducing the rates of the value of the village site lands.

6. We shall deal with the six points aforesaid in order we have mentioned above.

7. Apart from the other Acts which were before the legislature when the Jagirs Abolition Act was passed in the year 1954 the Bombay Taluqdari Tenure Abolition Act, 1949 - hereinafter called the Taluqdari Act - passed by the Bombay Legislature was very much there before the same legislative body. Yet we are grieved to find a confusing, meaningless and unpurposeful departure in the wordings of the Jagirs Abolition Act from those of the Taluqdari Act. If the legislature intended to make any departure from the provisions of the earlier Act, to avoid unnecessary controversy and arguments in courts, it ought to have done so in clear and unambiguous language. Section 7(1)(b) of the Taluqdari Act provided for the Collector to make an award in the manner prescribed in Section 11 of the Land Acquisition Act but subject to the conditions and exceptions provided in sub-clauses (i), (ii) and (iii). In the explanation appended to the section the market value was meant to mean the value as estimate in accordance with the provisions of Sections 23 and 24 of the Land Acquisition Act in so far as such provisions may be applicable. Interpreting the said provision of law in the case of State of Gujarat v. Vakhtsinghji Sursinghji Vaghela [(1968) 3 SCR 692 : AIR 1968 SC 1481], Bachawat, J. delivering the judgment on behalf of a Constitution Bench of this Court has said at page 701 :

Section 7(1) gives compensation to taluqdars for extinguishment of rights in any property under Section 6. The Collector is required by Section 7(1)(b) to make an award in the manner prescribed in Section 11 of the Land Acquisition Act, 1894. The Collector has to make an award of compensation under Section 11 and having regard to Section 15 in determining the amount of compensation, he is guided by the provisions of Sections 23 and 24. Section 23(1) requires an award of the market value of the land. Section 23(2) requires an additional award of a sum of fifteen per centum on such market value, in consideration of the compulsory nature of acquisition. It follows that under Section 7(1)(b) of the Abolition Act, read with Section 11 of the Land Acquisition Act, the taluqdars are entitled to receive as compensation the market value of all rights in any property extinguished under Section 6 and in addition to a sum of 15 per centum on such market value. This right is subject to the conditions and exceptions enumerated in sub-clauses (i), (ii) and (iii) of Section 7(1)(b). In cases falling under clause (i) and in some cases under clause (ii) the amount of compensation is limited. In cases falling under clause (iii) and in some cases under clause (ii) the amount of compensation is the "market value" which according to the explanation to Section 7(1) means the value estimated in accordance with Sections 23 and 24 of the Land Acquisition Act, 1894. The value so determined includes the solatium of 15 per centum payable under sub-section (2) of Section 23. Where the legislature intended to exclude the application of sub-section (2) of Section 23, it has said so, as in Section 14(2) under which compensation is determined in accordance with the provisions of sub-section (1) of Sections 23 and 24. It follows that the taluqdar is entitled to the solatium of 15 per centum on the market value, (1) under the main part of Section 7(1)(b) subject to the provisions of the several sub-clauses thereof; (2) in cases falling under clause (ii) of Section 7(1)(b); and (3) in cases under clause (ii) of Section 7(1)(b) where market value is awarded. The direction of the High Court is modified accordingly.

Sub-section (2) of Section 7 of the Taluqdari Act reads as follows :

Every award made under sub-section (1) shall be in the form prescribed in Section 26 of the Land Acquisition Act, 1894, and the provisions of the said Act, shall, so far as may be, apply to the making of such award.

It is to be noticed that because of the clear provision in clause (b) and the explanation, no significance was attached to what has been provided in sub-section (2).

8. Section 8 of the Jagirs Abolition Act says :

All public roads, etc., situate in jagir villages to vest in Government. - All public roads, lanes and paths, the bridges, ditches, dikes and fences on or beside the same, the bed of the sea and of harbours, creeks below high water mark, and of rivers, streams, nalas, lakes, wells and tanks, and all canals and watercourses, and all standing and flowing water, all unbuilt village site lands, all waste lands and all uncultivated lands (excluding lands used for building or other non-agricultural purposes) which are situate within the limits of any jagir village, shall, except in so far as any rights of any person other than the jagirdar may be established in or over the same and except as may otherwise be provided by any law for the time being in force, vest in and shall be deemed to be, with all rights in or over the same of

> appertaining thereto, the property of the State Government and all rights held by a jagirdar in such property shall be deemed to have been extinguished and it shall be lawful for the Collector, subject to the general or special orders of the State Government, to dispose them of as the deems fit, subject always to the rights of way and other rights of the public or of individuals legally subsisting.

Since in these appeals we are concerned with proprietary jagirs, we shall read sub-sections (2) and (3) of Section 11. The provide :

> (2) In the case of proprietary jagir, in respect of land held by a permanent holder the jagirdar shall be entitled to compensation equivalent to three multiples of the assessment fixed for such land.
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> (3) Any jagirdar having any right or interest in any property referred to in Section 8 shall, if he proves to the satisfaction of the Collector that he had any such right or interest, be entitled to compensation in the following manner, namely :
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> (i) if the property in question is waste or uncultivated but is cultivable land, the amount of compensation shall not exceed three times the assessment of the land :
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> Provided that if the land has not been assessed the amount of compensation shall not exceed such amount of assessment as would be leviable, in the same village on the same extent of similar land used for the same purpose;
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> (ii) if the property in question is land over which the public has been enjoying or has acquired a right of way or any individual has any right of easement, the amount of compensation shall not exceed the amount of the annual assessment leviable in the village for uncultivated land in accordance with the rules made under the Code or if such rules do nor provide for the levy of such assessment, such amount as in the opinion of the Collector shall be the market value of the right or interest held by the claimant;
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> (iii) if there are any tree or structures on the and, the amount of compensation shall be the market value of such trees or structures, as the case may be.
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> Explanation. - For the purposes of this section, the "market value" shall mean the value as estimated in accordance with the provisions of sub-section (1) of Section 23 and Section 24 of the Land Acquisition Act, 1894 (I of 1894), in so far as the said provisions may be applicable.

9. As in Section 7(1)(a) of the Taluqdari Act a provision was made in sub-section (1) of Section 13 of the Jagirs Abolition Act for the making of an application to the Collector for determining the amount of compensation payable to the jagirdars under Sections 11 or 12. Sub-section (2) of Section 13 says :

> On receipt of an application under sub-section (1), the Collector shall, after making formal enquiry in the manner provided by the Code make an award determining the amount of compensation, where there is a co-sharer of a jagirdar claiming compensation, the Collector shall by his award apportion the compensation between the jagirdar and the co-sharer.

There is a clear departure in Section 13(2) from the language of Section 7(1)(b) of the Taluqdari Act. In the former it is merely provided that the Collector shall make a formal enquiry in the manner provided in the Bombay Land Revenue Code, 1879 and make an award determining the amount of compensation. Here there is no reference to Section 11 of the Land Acquisition Act. Section 15 of the Jagirs Abolition Act reads as follows and is at par with sub-section (2) of Section 7 of the Taluqdari Act :

> Every award made under Section 13 or 14 shall be in the form prescribed in Section 26 of the Land Acquisition Act, 1894 (I of 1894), and the provisions of the said Act shall, so far as may be, apply to the making of such award.

10. In Section 11(3) of the Act language used is very unsatisfactory. Instead of providing that the person whose rights had been extinguished would be entitled to compensation in respect of the properties in which he had an interest in accordance with the Land Acquisition Act but only subject to the exceptions provided in clauses (i), (ii) and (iii), what is provided in sub-section (3) of Section 11 is that the jagirdar will be entitled to compensation in respect of any property in which he has any right or interest, but in the manner provided in clauses (i) to (iii). Literally the wordings of the two parts of sub-section (3) are contradictory and carry not much sense. In sub-clauses (i), (ii) and (iii) are more or less repeated sub-clauses (i) to (iii) of Section 7(1)(b) of the Taluqdari Act. No manner of awarding compensation is indicated in the sub-clauses of Section 11(3) for awarding of compensation in respect of any other property in which the jagirdar had any right or interest. Apart from the three kinds of property included in sub-clauses (i) to (iii) there are numerous other properties mentioned in Section 8 in some of which the jagirdar may have a right or interest thus entitling him to have compensation under the first part of Section 11(3). The unbuilt village site land is one such property. Hence as a matter of construction of sub-section (3) of Section 11 of the Act we hold that the jagirdars are entitled to compensation for all unbuilt village site lands in which they could prove to have any right or interest. We may add that the right of the jagirdars to claim compensation for the village site lands was not challenged on behalf of the State before the courts or authorities below. Nor was Mr. Desai able to press this point in this court with such or much convincingness or vehemence as he did in respect of the points of solatium and interest.

11. Apropos the point of solatium, it may be pointed out at the outset that the sheet anchor of the jagirdars in the High Court, as here, has been the decision of this court in Vakhatsinghji's case (supra). The High Court awarded solatium of 15% on the amount of compensation following the said decision. We are unable to uphold the view of the High Court in this regard.

12. Ordinarily and generally as pointed out in several earlier decisions of this court while dealing with the interpretation of Article 31(2) of the Constitution of India the concept of compensation means just equivalent or market value of the property acquired. Under the various clauses of sub-section (1) of Section 23 of the Land Acquisition Act for the purpose of determining the amount of compensation are taken into account some other factors over and above the market value of the land. Sub-section (2) says :

> In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

The Collector because of Section 15 of the Land Acquisition Act is obliged to be guided by the provisions contained in Sections 23 and 24 while determining the amount of compensation and thus

to award solatium of 15% also. But it is to be noticed that Section 26(1) requires every award to specify the amount awarded under clause first of sub-section (1) of Section 23, and also the amounts (if any) awarded under each of the other clauses of the same sub-section. The amount of solatium of 15% which the court is obliged to award under sub-section (2) of Section 23, strictly speaking, is not a part of the award compensation as it is not to be mentioned in the prescribed form of the award under Section 26(1). Jaganmohan Reddy, C.J. delivering the judgment of a Full Bench of the Andhra Pradesh High Court in R. D. Suryanarayana Rao v. Revenue Divisional Officer, Land Acquisition Officer, Guntur [AIR 1969 AP 55 : ILR 1969 AP 508 (FB)] observed at page 57, column 2 :

> The compensation as computed under Section 23(1) is the amount which has to be set out in the award passed under Section 26(1) and it is that award which is deemed to be a decree under sub-section (2) of Section 26. It may be pertinent to notice that neither solatium under sub-section (2) of Section 23, nor interest under Section 34 forms part of the award.

The learned Chief Justice in another Full Bench decision in the case of Kesireddi Appala Swamy v. Special Tahsildar, Land Acquisition Officer, Central Rly., Vijayawada [AIR 1970 AP 139 : ILR 1969 AP 968 (FB)] said at paragraph 14 at page 145 :

> In our view, the result of the foregoing discussion is that 15 per cent of the market value to be added under Section 23(2) to the compensation awarded under Section 23(1) is not part of the award which has to be passed by the Court within the meaning of Section 26.

13. It is to be remembered that the awarding of solatium of 15 per centum under sub-section (2) of Section 23 of the Land Acquisition Act is a special compensation in consideration of the compulsory nature of the acquisition. In absence of an express provision such as was there in the Taluqdari Act when jagirs were abolished and acquired as a measure of agrarian reform even without the payment of market value as compensation it is straining one's imagination to hold that the intention of the legislature was to award 15% solatium in view of the compulsory nature of the acquisition. It may be added here that because of Article 31A of the Constitution the vires of the act was upheld by this Court in Maharaj Umeg Singh v. State of Bombay [(1955) 2 SCR 164 : AIR 1955 SC 540]. As we have pointed out above there is no reference to Section 11 of the Land Acquisition Act in Section 13(2) of the Act. The intention of the legislature that it did not intend to give any solatium is clear from the fact that unlike the explanation appended to Section 7(1) of the Taluqdari Act in the explanation to Section 11 of the Jagirs Abolition Act reference is made to sub-section (1) only of Section 23 of the Land Acquisition Act. Similar is the provision in sub-section (2) of Section 14. To crown all, in Section 15 where the provisions of the Land Acquisition Act have been applied to the making of an award, care has been taken to say that every award made under Section 13 or 14 shall be in the form prescribed in Section 26. In our opinion, therefore, the legislature did not intend nor did it provide to give any solatium on the amount of compensation awardable to the erstwhile jagirdar.

14. Coming to the question of interest we find the judgment of the High Court to be correct in substance but not clear or right in form. Section 22 of the Act says :

> The amount of compensation payable under the provisions of this Act shall be payable in transferable bonds carrying interest at the rate of three per cent annum

> from the date of the issue of such bonds and shall be repayable during the period of twenty years from the date of the issue of such bonds by equated annual instalments of principal and interest. The bonds shall be of such denomination and shall be in such forms as may be prescribed.

The Bombay Merged Territories and Areas (Jagirs Abolition Compensation Bonds) Rules, 1956 were framed by the State Government under Section 25 of the Act. They will be called hereinafter the Rules. Rule 4 provides :

> The date of the coming into force of the Act shall be the date of issue of such bonds.

In other words irrespective of the actual date of the issuance of the bond the bond will be deemed to have been issued on August 1, 1954 on which date the Act came into force. Rule 5 of the Rules reads as under :

Annual instalment and repayment. - Every such bond shall be repayable in equated annual instalments in accordance with the repayment Schedule in Form B and Tables I to VII in Form C :

> Provided that if one or more instalments have fallen due before the delivery of the bond and have not been paid already, such instalments or any balance thereof shall be payable immediately after the delivery of the bond.

The ascertainment of the amount of compensation payable to the erstwhile jagirdars was bound to take time. The proviso to Rule 5, therefore, made the instalments which had fallen due before the delivery of the bond payable immediately after its delivery. Roughly speaking in the case in hand the bonds were delivered about 10 years later. Question for consideration is whether the State was liable to pay interest for the period of 10 years, if so, what amount ?

15. The intention of the legislature in Section 22 is clear that the bonds were to carry interest at 3% per annum from the date of issue of such bonds and were repayable during a period of 20 years. Suppose the bond could be issued on August 1, 1954, although it was not practicable to do so, the jagirdar according to the tables appended to the rules would have got the amount of principal with the requisite amount of interest every year starting from August 1, 1955. But because of the delay which was unavoidable in the delivery of the bonds the claimant could get the instalments - say 10 instalments only at the end of the tenth year. Because of the legal fiction introduced by Rules 4 and 5 the jagirdars got all the 10 instalments of principal and interest in one lump sum but after a delay of 10 years. The question for consideration is whether the jagirdar was entitled to any interest on the sums of 10 instalments paid to him at one time after the lapse of 10 years.

16. The High Court relying upon the decision of this Court in Satinder Singh v. Amrao Singh [(1961) 3 SCR 676 : AIR 1961 SC 908] has allowed the claim of interest, but seems to have allowed it on the entire amount of instalments including the principle and interest paid after the lapse of 10 years. In our opinion the awarding of interest on the delayed payments is justified but not on the entire amount of instalments. Interest would be payable only on the principal amount of instalments. Interest will not be payable on the amount of instalments of interest. Messrs Tarkunde and Patel conceded that this was the correct position in law. We do not feel persuaded to accede to the submission of Mr. Desai that on the delayed payments of instalments to interest was payable at all because under the proviso to Rule 5 of the Rules the back instalments became payable only on the delivery of the bonds. Gajendragadkar, J. as he then was, has said in Satinder Singh's case (supra) at

> What then is the contention raised by the claimants ? They contend that their immovable property has been acquired by the State and the State has taken possession of it. Thus they have been deprived of the right to receive the income from the property and there is a time lag between the taking of the possession by the State and the payment of compensation by it to the claimants. During this period they have been deprived of the income of the property and they have not been able to receive interest from the amount of compensation. Stated broadly the act generally implies an agreement to pay interest on the value of the property and it is on this principle that a claim for interest is made against the State.

17. Even without pressing into service Section 34 of the Land Acquisition Act, on the principles enunciated by this Court in Satinder Singh's case and in the background of the intention of the legislature to award 3% interest it is legitimate to hold that interest was payable on the arrears of the principal amount of instalments. To avoid any confusion, we shall illustrate our viewpoint with reference to Table No. II appended to the rules. Suppose the first 10 instalments of interest and principal fell due when the bonds were delivered to the erstwhile jagirdar, then all the 10 instalments of interest and principal became payable, and we are told, were paid after the delivery of the bonds. The jagirdar was deprived of his property on the coming into force of the Act, i.e. August 1, 1954. He was, therefore, entitled to interest on the amount of delayed payment of compensation. But the delay will have to be taken into account only with reference to the total amount of the 10 instalments of the principal sums the first being Rs. 3.73 and the last being Rs. 4.87 as mentioned in Table II. The jagirdar is not entitled to any interest on the delayed payments of the amounts of interest. One more precise statement and clarification in this regard is also necessary. The jagirdar will not get interest at 3% on the total 10 instalments of principal for 10 years. On the first amount of Rs. 3.73 he will get interest at 3% for 9 years. On the second instalment of Rs. 3.84 he will get interest at the said rate for 8 years and so on and so forth. On the last amount of Rs. 4.87 he will get interest for one year only at 3%.

18. This disposes of the three points urged on behalf of the State. Now we proceed to discuss the other three points urged on behalf of the jagirdars - either the respondents or the interveners.

19. Although it is true that the legislature has in the Act used two kinds of expressions - somewhere 3 times and somewhere 3 multiples, it seems to have been so done without any significance or variation in the provision. In sub-section (1) of Section 11 the expression 3 times has been used because it is followed by the expression "the average of the lands revenue". Similar is the position in Section 12. But because in sub-section (2) of Section 11 the expression is "the assessment fixed" for indicating the amount of compensation the expression used is "equivalent to 3 multiples". The expression seems to have been used in a sense of common parlance and not in a technical, mathematical or scientifical sense. In the context we have no doubt in our mind that the expression "3 multiples" means 3 times and not 6 times. The High Court in the judgment under appeal has followed the decision of Devan, J. as he then was, in Special Civil Application No. 469 of 1961 decided on February 12, 1964. In our opinion the learned Judge rightly held that there was no difference between 3 times and 3 multiples.

20. The problem of bagayat kasar or bagayat kas presented some difficulty. Mehta, J. in the judgment under appeal has agreed with and followed the decision of Devan, J. dated February 12, 1964 in Special Civil Application Nos. 629 and 630 of 1961 and held that the amount of bagayat

kas was rightly excluded while fixing the amount of compensation under Section 11(2) of the Act. Messrs Tarkunde and Patel took great pains to persuade us to take a contrary view. The argument advanced by them on the first look appeared to be attractive and forceful but did not stand closer scrutiny Devan, J. has pointed out in his judgment referred to above on a consideration of the various old records and reports as also the Bhagwadgomanda dictionary that 'kas' or 'kasar' means a tax. Bagayat lands are those which have got irrigational facilities by water from well, kundi etc. On such land apart from the amount of assessment fixed was also levied bagayat kas. In the records of the jagirdars invariably the amount of bagayat kas was shown separately than the amount of assessment on land. The Jagir Abolition Officer, the revenue tribunal and the Gujarat High Court from time to time have held that while determining the amount of compensation under Section 11(2) the amount of bagayat kas is not to be taken into account. We see no sufficient reason to enable us to take a view different from the one taken by the local authorities and the High Court of the State. It was argued with some force on behalf of the jagirdars that bagayat kas was a part of the land assessment although separately shown. There was nothing to show that the wells had to be constructed or maintained by the jagirdars to enable them to realize bagayat kas. That being so, in substance and in effect, it was argued, that it was extra assessment fixed on the land which had the facility of irrigation by water from wells or the like. We could not accept the argument of the jagirdars to be wholly correct. If it was merely a difference of assessment fixed for the different types of lands then there was no necessity of showing the realization of the bagayat kas as a separate item. In that event only the amount of assessment of the land would have varied. It appears depending upon the situation of the well and its distance from a particular land bagayat kas was imposed as a distinct and separate levy. It is, therefore, difficult to accept the arguments of the jagirdars that it was a part of the assessment fixed for the land within the meaning of Section 11(2) of the Act. It was also submitted by the jagirdars that no separate compensation has been provided for the bagayat kas which the jagirdars were realizing and which they could not do on the abolition of the jagirs. It is so. But then it was for the legislature to provide any separate compensation for such a realization by the jagirdar. Courts cannot help them if the legislature did not provide for any compensation for the jagirdars for losing their right of bagayat kas. It is not possible to do so by treating the bagayat kas as a part of the assessment fixed for the land.

21. We do not feel inclined to examine in any detail the correctness of the third submission made on behalf of the jagirdars. The jagirdars filed appeal before the revenue tribunal. In that appeal areas of the village site lands in respect of which compensation was payable to the jagirdars were increased as some areas in the opinion of the tribunal had been wrongly excluded by the Jagir Abolition Officer. But in that situation the State as a respondent before the tribunal pointed out that the rates of compensation fixed for the village site lands in some cases were high. The State succeeded in persuading the tribunal to reduce the rates in some cases. But the net result was the awarding of more compensation to the jagirdars for the village site lands. In their appeal the tribunal did not reduce the amount of compensation. On the other hand, it enhanced it. The High Court did not feel persuaded to interfere with this aspect of the matter. Under Section 16 read with Section 17 of the Act it seems that the State had no right of appeal before the revenue tribunal. In such a situation in view of the decision of this Court in Management of Itakhoolie Tea Estate v. Workmen [(1960) 2 LLJ 90 : AIR 1960 SC 1949] there may be substance in the argument put forward on behalf of the jagirdars that the State could not challenge the rates of compensation fixed by the Jagir Abolition Officer on the principles engrafted in Order 41, Rule 22 of the Code of Civil Procedure. But taking the totality of the circumstances we think this is not a fit item in respect of which we should interfere in an appeal filed by special leave of this Court under Article 136 of the Constitution. Justice on this point is not in favour of the jagirdars as on facts the decision of the revenue tribunal

was not found to be erroneous.

22. In the result C.A. Nos. 1804 and 1805 of 1970 are allowed in part in the manner and to the extent indicated above. The directions given by the High Court in its remand order to the tribunal stand modified accordingly. Civil Appeal No. 1968 of 1970 is dismissed. In the circumstances we make no order as to costs.

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