

Satyanarayan Prasad Sah and Others

Vs

State of Bihar and Another

Dina Nath Singh

Vs

State of Bihar and Others

Writ Petitions Nos. 326 and 795 of 1979

(V. R. Krishna Iyer, R. S. Pathak, O. Chinnappa Reddy JJ)

31.07.1980

JUDGMENT

KRISHNA IYER, J. –

1. Mr. Sinha, appearing for the petitioners in the above writ petitions, contended that Section 4(ii) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 was violative of Articles 14 and 19 of the Constitution of India. In his submission, the provision that any proceeding in a civil court of the nature covered by Section 4(ii) would be within the exclusive jurisdiction of the consolidation authorities and any order passed by a civil court regarding land (title or possession or other incident) pending before the civil court would stand abated, was a reasonable restriction on the right of a party to go to an ordinary civil court. It also discriminated that class of litigants from other classes of litigants who enjoyed the right to approach the civil court. In his case the decree had been passed in his favour by a civil court but the subject-matter was pending in an appeal in the High Court and High Court passed an order nullifying the decree of the trial Court having regard to Section 4(ii) of the Act.

2. We do not think there is substance in the submissions. True, the petitioner is right in saying that the high Court should not have "nullified" the decree of the trial Court but should have merely declared that the proceeding stood abated, which of course, means that the civil proceeding comes to naught. Regarding the constitutional submissions we are not called upon to investigate the merits for the short reason that both the points have been covered by two decisions of this Court, Ram Adhar Singh v. Ramroop Singh ((1968) 2 SCR 95 : AIR 1968 SC 714) and Chattar Singh v. Thakur Prasad Singh ((1975) 4 SCC 457 : AIR 1975 SC 1499). Indeed, the High Court has merely followed these two decisions in reporting the contentions of the appellants. We, therefore, see no merit in the writ petitions and dismiss them.

3. In the circumstances of the case there will be no order as to costs.

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