

Paras Nath Chaubey

Vs

State of Uttar Pradesh

Civil Appeal No. 357 of 1981

(P.N. Bhagwati, E.S. Venkataramiah JJ)

27.01.1981

ORDER

1. The only question which arises for determination in this appeal by special leave is whether the land which formed the subject-matter of the sale deed dated March 12, 1973 executed by the appellant in favour of Komal and Munnar was rightly included in the holding of the appellant for the purpose of determining the surplus land held by him. The prescribed authority as well as the District Judge in appeal held that since the sale deed was executed by the appellant subsequent to January 24, 1971, it was liable to be ignored in determining the surplus land in the hands of the appellant unless the appellant could show that the sale was effected by him bona fide and for adequate consideration, which, in the opinion of these authorities, the appellant had failed to do. The High Court in the writ petition preferred by the appellant declined to interfere with this view taken by the authorities and the appellant, therefore, preferred the appeal by special leave.

2. It is clear from the record that the sale deed dated March 12, 1973 was executed by the appellant in favour of Komal and Munnar pursuant to the decree passed by the civil court on February 13, 1971 in a suit filed by Komal and Munnar for specific performance of an agreement for sale entered into between them and the appellant on May 10, 1969. Since the sale deed was executed in enforcement of an agreement which was entered into on May 10, 1969, long before January 24, 1971 and the suit in which the decree was passed was also filed in 1970, prior to January 24, 1971, it is difficult to appreciate how the sale deed could be said to be lacking in bona fides. So far as the consideration is concerned, it was no one's case that the sale deed was for a consideration which was not adequate. The only ground on which the sale was ignored by the authorities and in the High Court was that it was effected subsequent to January 24, 1971. But, in taking this view the authorities as well as the High Court overlooked the fact that the genesis of the sale deed was the agreement dated May 10, 1969 followed by a suit filed in 1970, prior to January 24, 1971.

3. We, therefore, allow the appeal, set aside the order of the High Court as also the orders passed by the prescribed authority and the District Judge insofar as they relate to the land sold by the appellant to Komal and Munnar on March 12, 1973 and remand the matter to the prescribed authority for redetermination of the surplus land, after excluding the land sold by the appellant to Komal and Munnar under the sale deed dated March 12, 1973. There will be no order as to costs.

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