

Kartar Singh

Vs

State of Uttar Pradesh and Others

Civil Appeal No. 978 of 1981

(Syed M. Fazal Ali, R.B. Mishra JJ)

13.03.1981

JUDGMENT

FAZAL ALI, J. –

1. The only point argued by the appellant in this case is that as regards plot Nos. 406, 349/2 and 387 although there is a tubewell or a canal, but the khasra entries show that only a part of the land has irrigation facilities whereas other portions of these plots do not have these irrigation facilities. Under Section 4-A, clause firstly of the U.P. Act 1 of 1961, it is necessary that the irrigation facilities should be available for the land in respect of the crop concerned. The irrigation facilities may be through a canal, a lift irrigation canal or State tube-well. It is also essential that at least two crops should be grown in the land in any of the fasli years. In the instant case although the High Court has found that irrigation facilities are available, the khasra entries do not show that such facilities are available to the entire land which has been taken over. For these reasons, therefore, we will allow this appeal on this point only and remit the case to the prescribed authority to determine the exact area of the land with respect to the plots mentioned above only which is irrigated or has irrigational facilities. The prescribed authority will also find if two crops are grown in one of the years as required by Section 4-A. If on determining the question he finds that irrigation facilities are not available to the entire plots, he will determine the surplus accordingly and give a choice to the tenure holder under the Act.

2. There will be no order as to costs.

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