

Mst. Sadiqua Begum and Others

Vs

Board of Revenue, Madhya Pradesh and Another

Civil Appeal No. 245 (N) of 1971

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

01.02.1985

JUDGMENT

FAZAL ALI, J. -

1. This appeal by certificate is directed against a judgment of the Madhya Pradesh High Court dismissing the writ petition filed by the appellants against certain orders of the Revenue Officers under the provisions of the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (for short, 'Abolition Act') which came into force sometime in the year 1951. By virtue of Section 6 of the Abolition Act all transfers made by proprietors at any time after March 16, 1950 were deemed to be void unless declared valid by the Collector on a proper application made to him. The transferees, in view of the aforesaid provisions, filed applications before the Collector in 1964 who validated the transfers by his order dated June 6, 1964. Against the order of the Collector a revision was taken by the Commissioner in exercise of his powers under Section 50 of the M.P. Land Revenue Code, 1959 (hereinafter referred to as the 'Code'). The transferees objected to the jurisdiction of The Commissioner on the ground that he had no power to revise the order of the Collector. This contention was rejected by the Commissioner and hence, a revision was taken to the Board of Revenue which confirmed the view of the Commissioner. It was against this order that the appellants filed a writ petition before the High Court assailing the orders of the Commissioner as also the Board of Revenue.

2. The learned counsel for the appellants contended that any order passed under Section 6 of the Abolition Act was not revisable under the Code because the Abolition Act was a Code or a law complete in itself and conferred no powers of revision or appeal outside the Abolition Act. Hence, it was contended, the Commissioner had no jurisdiction to entertain suo moto revision. In the second place, it was argued that under Section 84 of the Abolition Act appeals were provided against all orders passed by Revenue Officers and since there was a right of appeal provided under the Act, no revisional power could be exercised either by the Commissioner or by the Board of Revenue under the Code. It was also faintly urged before the High Court that the Revenue Officers when exercising the powers under the Abolition Act were not exercising the powers as Revenue Officers but as a persona designate under the Abolition Act. In other words, the contention raised before the High Court, which was repeated before us, was that the Revenue Officers had a dual capacity - (1) under the Abolition Act, and (2) under the Code. The High Court, however, rejected the contention and, in our opinion, rightly.

3. A perusal of the schemes of the Abolition Act and the Code clearly indicates that the two Acts were in pari materia and the Revenue Officers were exercising powers under both the Acts cognately. There was not clear-cut distinction between a Revenue Officer acting under the Abolition

Act and acting under the Code. This being the position, it is manifest that the revisional powers could be exercised by the Revenue Officers under Section 50 of the Code and even under the Abolition Act as well. We find ourselves in complete agreement with the view taken by the High Court on this point and which was also not seriously challenged before us.

4. The sheet-anchor of the contention of the learned counsel for the appellants before us was that even assuming that the two statutes (Abolition Act and the Code) were statutes in pari materia, they possess two clear-cut and separate powers, that is to say, no suo moto revision could lie to the Revenue Officers unless a revision or appeal was filed before the Commissioner by the party.

5. It is not disputed in this case that the Commissioner and Board of Revenue passed the order in exercise of their revisional powers. It would, however, appear that under the provisions of the Abolition Act as also the Code, both the Commissioner and the Board were appellate as also revisional authorities. Thus, when two powers were conferred on the said officers in a sort of a combined capacity, it cannot because the formality of filing a regular appeal before the Commissioner or the Board was not adopted, a suo moto revision would not lie. The contention could have some substance if there would be any statutory embargo on the hierarchy of the officers mentioned above to entertain any revision against an order passed by the authority without filing an appeal before it.

6. In the instant case, we find that both the Commissioner and the Board of Revenue had appellate as also revisional powers. Both these powers being conferred on the same authority, the difference between the exercise of a revision or appeal was a mere idle formality and was of no consequence.

7. The result is that all the contentions raised by the appellants fail and the appeal is dismissed but in the circumstances of the case without any order as to costs.

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