

Satvir Singh and Others

Vs

Delhi Cloth and General Mills Ltd.

Civil Appeal No. 4768 of 1989

(Rangnath Misra, P. B. Sawant, M. N. Venkatachaliah JJ)

23.11.1989

ORDER

1. Special leave granted

2. In Civil Appeal No. 878 of 1974 disposed of on November 29, 1984, the Court remitted Second Appeal No. 1563 of 1969 to the Allahabad High Court for a fresh disposal. The High Court examined the question whether the respondent's claim of bhumidari right or the appellant's claim of thikadari right in the land was sustainable in law. It came to the conclusion that the lease was agricultural and on that basis the respondent company had become adhivasi in respect of 158 bighas of land. It is further found that the claim with regard to 158 bighas and odd of land had already been negatived by this Court and no dispute with reference to the same survived. The operative portion of the High Court's judgment ran thus :

"From what we have said above, the appeal succeeds partly and the judgment of the learned Single Judge holding Delhi Cloth and General Mills as adhivasi of the entire area of land i.e. 376 bighas 16 biswas and 13 biswansis is set aside. On our finding Delhi Cloth and General Mills is adhivasi and sirdar of the land as described below :

(i) 75 bighas 8 biswas 8 biswansis, and

(ii) 156 bighas 11 biswas and 51/2 biswansis.

In the light of observation made above the prescribed and authority will redetermine the surplus area with Delhi Cloth and General Mills and the land-holder."

3. This matter was taken up for hearing on several dates before us and ultimately counsel appearing for both sides have accepted the position that the claim of the appellants was confined to 72 bighas, 15 biswas and 10 1/2 biswansis only. It has been conceded in an affidavit filed by Jasbir Singh in this Court that 8 bighas and 7 biswas of land have been allotted to allottees who are in possession on the basis that the said land was surplus in the hands of the parties. These lands have, therefore, to be excluded from the 72 bighas, 15 biswas and 10 1/2 biswansis of land in which the appellants claim interest.

4. The assertion of the State of Uttar Pradesh that most of the lands in dispute have been taken over by the State as ceiling surplus land is not disputed. On account of the fact that ceiling surplus had been determined in the hands of the respondent-company and by our present order holding that the appellants have interest in regard to about 64 bighas of land out of the land in dispute, a fresh

determination of the surplus has to be done. The appellant should be entitled to be put into possession of the lands out of 64 bighas which would be within the ceiling limit. We, therefore, direct that the competent authority shall proceed to determine the ceiling surplus under the U.P. Imposition of Ceiling on Land Holdings Act, 1960 within three months from today and once that is done, the appellants shall be entitled to restoration of possession of the area coming within the ceiling limit and the balance shall vest in the Utter Pradesh Government. The competent authority shall forward a copy of his determination within two weeks after three months to the Registry of this Court.

5. We make it clear on the basis of the statement made by counsel of the appellants and the respondent company that there is no inter se claim on either side against the other.

6. The matter shall be re-listed after four months from today.

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