

Competent Authority, Tarana District, Ujjain (M.P.)

Vs

Vijay Gupta and Others

Civil Appeal No. 654 of 1978

(K. Ramaswamy, N. M. Kasliwal JJ)

06.03.1991

ORDER

1. Proceedings under Section 11 of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (hereinafter referred to as 'the Act') were initiated against the respondents. A draft statement was notified as contemplated in sub-section (3) of Section 11 of the Act. No objection petition to the draft statement had been made on behalf of the respondents within thirty days, but it was filed only after the period of thirty days. This objection petition was rejected by the Competent Authority on the short ground that it was filed beyond the period prescribed under sub-section (3) of Section 11 of the Act and that Section 5 of the Limitation Act, 1963 was not applicable to an objection petition filed under sub-section (3) of Section 11 of the Act. The respondents aggrieved against the aforesaid order of the Competent Authority, filed a suit in the civil court agitating certain questions of title and also challenged the order passed by the Competent Authority. The trial court as well as the first appellant court held that civil court had no jurisdiction in view of the provisions contained in sub-section (4) of Section 11 of the Act. The respondents then filed a second appeal before the High Court. The learned Single Judge of the High Court by order dated July 17, 1970 referred the following two questions for being decided by a larger bench :

- (1) Whether the civil court has jurisdiction to entertain a suit independently of sub-section (4) of Section 11 of the M.P. Ceiling on Agricultural Holdings Act, 1960 ?
- (2) Whether for preferring an objection under sub-section (3) of Section 11 of the M.P. Ceiling on Agricultural Holdings Act, 1960, Section 5 of the Limitation Act would be applicable in view of the provisions contained in Section 29(2) of the Limitation Act (36 of 1963) ?

The Full Bench of the High Court considered the matter and recorded the following opinion :

"Our answer, therefore, to the first question is that the jurisdiction of the civil court to entertain a suit pertaining to the question of title has not been excluded under the scheme of the M.P. Ceiling an Agricultural Holdings Act, 1960 and the civil court will have jurisdiction to entertain a suit pertaining to the question of title even independently of sub-section (4) of Section 11 of that Act."

"Therefore, our answer to the second question is that Section 5 of the Limitation Act, 1963 will be applicable for considering the question of limitation in regard to an objection petition filed under sub-section (3) of Section 11 of the Madhya Pradesh Ceiling of Agricultural Holdings Act, 1960."

After the aforesaid opinion given by the Full Bench the matter was considered by the learned Single Judge and in view of the above opinion of the Full Bench the appeal was allowed by order dated April 8, 1977 and the orders of the lower courts were set aside and the case was remanded back to the trial court for trial of all the issue and disposal of the suit in accordance with law.

2. The Competent Authority, Tarana District Ujjain (M.P.) aggrieved against the order of the High Court has come in appeal by the grant of special leave. It was contended on behalf of the appellant that Section 44 of the Act clearly laid down that Section 5 of the Limitation Act was applicable only in case of appeal and revision under the Act. It was thus argued that Section 5 of the Limitation Act was by necessary implication excluded in respect of any objections to be filed under Section 11 of the Act. We do not find any force in the above contention. It is no doubt correct that Section 44 states that the provisions of Sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908 shall apply to the filing of the appeal or application for revision, but that does not exclude the application of provisions of Section 29(2) of the Limitation Act, 1963. Section 29(2) of the Limitation Act, 1963 clearly provides as under :

"29. (2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law."

3. A bear reading of the above provision goes to show that the provisions contained in Sections 4 to 24 (inclusive) shall apply unless they are expressly excluded by any special or local law. There is no provision contained in Section 11 or 44 or any other provision of the act expressly excluding the provisions of Section 5 of the Limitation Act from applying to any objections filed under Section 11 of the Act. The Full Bench of the High Court has also taken the same view and we do not fine any ground or justification to take a different view.

4. So far as the other question regarding the maintainability of the suit in a civil court is concerned, suffice to say that sub-section (5) of Section 11 of the Act itself provides that any party may within three months from the date of any order passed by the Competent Authority under sub-section (4) of Section 11 of the Act institute a suit in the civil court to have the order set aside. Thus the above provision itself permits the filing of a suit in a civil court and any decision of such court has been made binding on the Competent Authority under the Above provision of sub-section (5) of Section 11 of the Act. It is not in dispute that the suit in the present case was filed within three months as provided under sub-section (5) of Section 11 of the Act. In the result, we do not find any force in this appeal and it is accordingly dismissed with no order as to costs.

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