

Gurbax Singh and Atumal Alias Atma Ram

Vs

State of Rajasthan and Others

Civil Appeal Nos. 4208 and 4214 of 1984 with C.A. Nos. 4110-23, 4127-28 of 1989, 665 of 1985, SLP Nos. 10704, 10727, 10767, 10761, 10729, 10896, 11016, 11243, 11240, 11269, 11274-11278, 11239, 11332, 11393, 12168, 13515, 13516, 13967-13969, 14079-84 & 14375 of 1984

(K.N. Singh, P.B. Sawant, N.M. Kasliwal JJ)

29.07.1991

ORDER

1. These appeals are directed against the order of the High Court of Rajasthan dated September 12, 1983 dismissing appellants' writ petitions filed under Article 226 of the Constitution challenging the reopening of the ceiling cases in accordance with the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973.
2. The appellants in the present and the connected matter filed writ petitions before the High Court under Article 226 of the Constitution challenging validity of Section 15 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973. The High Court by the impugned order dismissed the writ petitions upholding the validity of Section 15 of the Act. The appellants' grievance is that ceiling area in respect of their land had been determined by the ceiling authorities and those orders became final but the State Government directed the Additional Collector for reopening the appellants' cases and to decide the same afresh in accordance with law. Learned counsel for the appellants urged that once the ceiling authorities determined the ceiling area in accordance with the provisions of the Act, such decision had assumed finality under the Act, the same could not be reopened merely at the instance of the State Government which was a party to the proceedings before the ceiling authorities. It was urged that Section 15 confers arbitrary powers on the State Government to nullify the judicial decisions. He further urged that Section 15 is against the basic structure of the Constitution as it empowers the executive to nullify judicial order by executive action.
3. After hearing learned counsel for the parties, we are of the opinion that there is no merit in the appellants' contention. Section 15 confers power on the State Government to call for the record of any case where final order may have been passed under the Act in contravention of the provisions of the Act and if the State Government is satisfied that the order is prejudicial to its interest or if it is vitiated on account of the discovery of new and important matter or evidence, it may direct the ceiling authority to reopen the case for determining the ceiling area in accordance with the provisions of the Act. The power conferred on the State Government is not a blanket power, its decision to reopen the case is subject to judicial scrutiny. If the order of the State Government for reopening the case under Section 15 is not founded on relevant considerations as specified in the section itself, the order would be liable to be struck down by courts. In our opinion, Section 15 does not in any way change the basic structure of the Constitution nor does it encroach upon the power of the judiciary. The appellants failed to point out any provisions of the Constitution in support of their contention that Section 15 is ultra vires the Constitution.

4. There is no dispute that the State legislature is competent under Entry 18 of the State List of Seventh Schedule of the Constitution to enact law prescribing ceiling on land. While enacting such a law, it is permissible to the State legislature to enact Section 15 to ensure implementation of the agrarian reform and to prevent evasion of the provisions of the Act. The Act seeks to implement agrarian reform and the same is protected under Articles 31-A and 31-C of the Constitution and further the Act itself has been placed in the Ninth Schedule of the Constitution, therefore, it is immune from any challenge on the ground of violation of any fundamental rights. In *Sukhdarshan Singh v. State of Rajasthan* [Civil Appeal Nos. 180-83 of 1985, decided on November 21, 1989], another bench of this Court has also upheld validity of Section 15.

5. In view of the above discussion, we do not find any merit in these appeals warranting interference with the judgment and orders of the High Court. The appeals fail and are accordingly dismissed, but there will be no order as to costs. Interim orders stand discharged.

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