

State of U.P. and Others

Vs

Madho Kumar Swarup And Others

Civil Appeals No. 1042 of 1977

(K. Ramaswamy, B. L. Hansaria JJ)

14.12.1995

ORDER

1. Both the appeals are disposed of by common judgment since the State and the aggrieved persons against the orders of the prescribed authorities etc. have ultimately come to this Court in these appeals.

2. It is not necessary to narrate all the facts in detail. Suffice it to state that under Section 10 of the U.P. Imposition of Ceiling on Land Holdings Act, 1960, (for short 'the Principal Act'), proceedings were initiated and of the ceiling area was determined. Thereon controversy has arisen as to the extent of the ceiling area required to be retained by the respondent and surplus land that stood vested in the State which is the subject-matter of appeals in this Court.

3. Even before their filing, the U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 (Act 18 of 1973) (for short 'the Amendment Act'), had come into force with effect from 8-6-1973. Section 19 of the Amendment Act provides thus :

"19. Transitory provisions. - (1) All proceedings for the determination of surplus land under Section 9, Section 10, Section 11, Section 12, Section 13 or Section 30 of the Principal Act, pending before any court or authority at the time of the commencement of this Act, shall abate and the prescribed authority shall start the proceedings for determination of the ceiling area under that Act afresh by issue of a notice under sub-section (2) of Section 9 of that Act as inserted by this Act :

Provided that the ceiling area in such cases shall be determined in the following manner -

(a) firstly, the ceiling area shall be determined in accordance with the principal Act, as it stood before its amendment by this Act;

(b) thereafter, the ceiling area shall be redetermined in accordance with the provisions of the principal Act as amended by this Act."

Sub-section (2) thereof is not material for the purpose of these cases, hence omitted.

4. A reading thereof would show that all proceedings for determination of surplus land under Sections 9 to 13, 30 of the principal Act pending before any court or authority at the time of the commencement of the Amendment Act shall stand abated and the prescribed authority shall start

afresh the proceedings for determination of the ceiling area under the principal Act, by issuance of a notice under sub-section (2) of Section 9 of the principal Act as amended by the Amendment Act ceiling should be determined firstly under the principal Act as it stood before the its amendment by the Amendment Act. Thereafter, ceiling area should be redetermined as per the Amendment Act. The proviso provides procedure for determination of the ceiling area and the manner in which it requires to be done.

5. As per the orders of the prescribed authority on 24-2-1975 placed on record as Annexure 'E' in CA No. 1383 of 1978 filed by the respondents in the State appeal, the prescribed authority had redetermined the ceiling area as per provisions of the Amendment Act. Whether the redetermination is in accordance with law is not a controversy before us. So it is not necessary to go into it since the proceedings have to be taken under the Amendment Act. It would be open to State or the persons concerned to pursue the remedy according to law. As regards the appeals at hand, as a consequence of Section 19, they stand abated.

6. The appeals are accordingly dismissed but, in the circumstances, without costs.