

Durga Das

Vs

Collector and others

Civil Appeal No.664 of 1985

(K. Ramaswamy, G.B. Pattanaik, JJ)

07.08.1996

JUDGMENT

1. Counsel for the appellant states that the office dated July 16, 1996 has been complied with.
2. This appeal by special leave arises from the judgment of the High Court of Himachal Pradesh, Shimla made in M.F.A. No. 24/84 on May 5, 1984. The only question is whether the appellant is a tenant in occupation of the land? He claimed that he was entitled to compensation in respect of subject matter of acquisition as tenant. The reference Court and the High Court recorded as a fact that the appellant is not a tenant and, therefore, is not entitled to the share in the compensation as a tenant. The undisputed facts are that 14 canals 18 of land belonged to the family consisting of Kishori Lal, Kewal Krishan and Koushalya, their sister. Kishori Lal and Koushalya sold their respective suitable shares. Kewal Krishan also sold his specified share to the appellant. It would appear that in the revenue records the name of the appellant has been entered as a qualifying tenant by reason of sale when the land to an extent of land admeasuring one canal, 5 marlas: 2 canals, 3 marlas belonged to Vijay Kumar were acquired by the Government. The appellant laid claim as a tenant in respect thereof. The courts below held that since he purchased a specified share from Kewal Krishan he cannot be considered to be as a tenant in respect of other lands, and, therefore, is not entitled to the compensation. We find that the view taken by the High Court is in conformity with law. Mutation entries do not confer any title to the property. It is only an entry for collection of the land revenue from the person in possession. The title to the property should be on the basis of the title they acquired to the land and not by mutation entries. Admittedly, the appellant has purchased some lands from Kewal Krishan one of the brothers of the family to the extent of his specified share. No lease deed was executed in respect of other lands. In these circumstances, the appellant cannot be treated to be a tenant of Vijay Kumar to claim compensation on the basis of his title as a tenant.
3. The Court below is directed to pay over the amount to Vijay Kumar if the amount is withdrawn by the appellant, Bank guarantee should be encashed and the balance amount would be paid over to the appellant. If the amount was not withdrawn the bank guarantee given by the appellant is directed to be discharged.
4. The appeal is accordingly dismissed. No. costs. Appeal dismissed.