

SUPREME COURT OF INDIA

State of U.P.

Vs.

Sher Singh

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

17.12.1996

ORDER

This appeal by special leave arises from the judgment of the learned single of the Allahabad High Court, made on August 10, 1984 dismissing Writ petition No.2589/82. The admitted position is Ram Het had filed a suit for declaration under Section 6 of the Urban Land (Ceiling & Regulation) Act, 1976. The competent authority prepared the draft statement and issued the notice and after hearing the objections observed that the declarant was in possession of 1146.0430 sq. mts. of land in excess of the ceiling prescribed. Thereon, an appeal was filed before the District Judge. Pending disposal of the appeal, the declarant died. The District Judge remitted the matter for fresh consideration to the competent authority. Again the competent authority by its order dated August 17, 1981 determined the excess vacant land as 1146.0430 sq.mts. The respondents again filed an appeal before the District Judge who Judge remitted the matter to the competent authority. Against the remand order, the Government filed writ petition which was dismissed. Thus, this appeal. it is contended that the only question that requires to be decided is: whether the legal representatives can claim proportionate shares, after the demise of the declarant? The High Court has given a finding that the appropriate date, on which the entitlement has to be considered, is date on which the declaration under Section 6 was filed and on that date Ram Het was the owner and filed the declaration in his capacity as holder of the vacant urban land. Under these circumstances, after the demise of the declarant, the question would be: whether the legal representatives of the holder of the urban vacant land could claim any deduction on the basic of their intestate or testamentary succession? The crucial date is the sate of the declaration filed under Section 6(1) before the competent authority. When the declaration under Section 6(1) was filed, Ram Het was the holder of the urban vacant land and he accordingly filed the declaration. After the demise, the question of intestate or the testamentary succession does not arise. The District Judge, therefore, was not right is remanding the matter again for fresh consideration and computation; Thus, the High Court is not correct in not interfering with the appellate order though it found that it made a little difference.

Under these circumstances, the appeal is allowed. The order of the High Court stands set aside and the writ petition is allowed. The order of the appellate authority stands quashed and that of the competent authority stands upheld. No costs.