

Anurag Virmani

Vs

State of M.P. and Another

Civil Appeal No. 6304 of 1997

(Sujata V. Manohar, D. P. Wadhwa JJ)

11.02.1998

ORDER

1. The lands in question originally formed a part of the holding of one Sardar Dhyan Singh. A draft statement under Urban Land (Ceiling & Regulation) Act, 1976 was prepared in respect of the holding of Sardar Dhyan Singh on 10-2-1985. The draft statement was served on the owner under Section 8 on 10-12-1985. Thereafter by registered conveyance dated 21-2-1986, the original owner Sardar Dhyan Singh sold the said properties to the appellant. In the revenue record, the name of the appellant was mutated on 14-3-1986.
2. On 17-3-1986, final statement under Section 9 of the Urban Land Ceiling Act was prepared in respect of the holding of Sardar Dhyan Singh. On 22-5-1987, a notification under Section 10(1) of the said Act was published. According to the appellant, on coming to know in December 1989 about the said proceedings under the Urban Land Ceiling Act in respect of Sardar Dhyan Singh which affected the lands conveyed to him, he filed an appeal under Section 33 of the said Act on 18-1-1990. The appeal seems to have been rejected by the Additional Commissioner, Jabalpur on the basis that the original holder transferred the said lands in favour of the appellant after issuance of "an order" under Section 9. He has held that the appellant has no right to file an appeal because primarily the appellant is not a party in the original case and that the holder, after presenting the return has no right to transfer the land without notice under Section 26(1).
3. The appeal, therefore, was decided on a misconception that the transfer took place after the final statement was issued under Section 9. The appellate authority also did not consider the contention of the appellant that the entire land was outside the ambit of the said Act because it was used for agricultural purposes nor did he consider the revenue records pertaining to the use of the land.
4. The appellant filed a writ petition before the High Court challenging the order of the appellate authority. The High Court also seems to have proceeded on the basis that the appellant had purchased the said land after the final statement was issued. Since such a purchase was without giving any notice under Section 26, the appellant cannot be considered as a person aggrieved to file the appeal.
5. Both these judgments having proceeded on a misconception, we allow the present appeal, set aside the impugned orders of the High Court as well as the appellate authority and remand the matter to the appellate authority for consideration of the appeal filed by the appellant on all issues on merit in accordance with law.
6. The appeal is accordingly allowed with no order as to costs.