

# SUPREME COURT OF INDIA

Digamber Shankar Kshirsagar

Vs.

State of Maharashtra

C.A.No.2414 of 1991

(S.P.Kurdukar and M.Jagannadha Rao JJ.)

08.10.1998

## ORDER

1. This appeal is directed against the judgment and order dated 30-3-1982 passed by the Bombay High Court. The High Court accepted the choice given by the landlady under Section 16 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (for short "the Act") in respect of Gat No. 421.

2. The appellants are the purchasers of Gat No. 421 from the landholder Smt Sumatibai. This land was purchased by them in the year 1965 much after the enforcement of the Act. Thus sale transaction in favour of the appellants cannot be recognised as a valid transaction and therefore, the said area will have to be included in the holding of the landholder. Having included the said land into the holding of the landlady, she gave her choice to surrender Gat No. 421 in favour of the Government.

3. The landlady aggrieved by the order passed by the Sub-Divisional Officer preferred an appeal before the appellate authority which appeal came to be dismissed on 10-7-1978. It is relevant to mention that the appellants did not file any appeal against the order of delimitation in respect of Gat No. 421. However, the appellants filed a revision application before the Additional Commissioner who by judgment and order dated 28-2-1979 dismissed the same. The appellants aggrieved by the said order preferred a writ petition to the High Court which came to be dismissed on 30-3-1982. It is against this order the present appeal has been filed.

4. It was contended on behalf of the appellants that they being bona fide purchasers, their sale transactions should be protected and the landlady should be directed to give other land in exercise of her choice under Section 16 of the Act. It was further contended that the landlady who had parted with lands bearing Surveys Nos. 117, 118 and 120/3 to her brother's son in 1958 should be directed to exercise the choice in respect of these lands. It was, therefore, contended that the matter be remanded to the Sub-Divisional Officer giving an opportunity to the landholder to exercise the choice afresh considering the equities of the appellants as well as the transferees of Surveys Nos. 117, 118 and 120/3.

5. We see no substance in any of these contentions. As far as the lands bearing Surveys Nos. 117, 118 and 120/3 are concerned that were the subject-matter of the decision of the High Court dated 28-1-1977 in Special Civil Application No. 5335 of 1976 wherein the High Court did not accept the

choice given by the landholder in respect of these lands. As a result of this judgment it is not possible to reopen the issue as regards the choice in respect of Surveys Nos. 117, 118 and 120/3. If this be so the question of choice and equities between the appellants and the transferees in respect of Surveys Nos. 117, 118 and 120/3 would not arise.

6. Once it is found that the landlady held an area in excess of the ceiling limits, consequently the excess land will be declared surplus and accordingly she is required to exercise the choice which she exercised and surrendered Gat No. 421 which was purchased by the appellants. The appellants admittedly purchased this land after coming into force of the Act. If this be so, there is no question of any equity that needs to be considered. In these circumstances we are unable to give any relief to the appellants in this appeal. There is no substance in the appeal. It is accordingly dismissed but, however, there will be no order as to costs.