

SUPREME COURT OF INDIA

Kishan Lal

Vs.

State of Madhya Pradesh

C.A.No.1529 of 2000

(B.P.Singh and Arun Kumar JJ.)

22.02.2005

JUDGMENT

B.P. Singh, J.

1. Heard counsel for the parties.

2. This appeal by special leave has been preferred by the appellant against the judgment and order of the High Court of Madhya Pradesh at Jabalpur dated 23rd June, 1999 passed in writ petition No. 2604/99. By the aforesaid judgment and order the High Court dismissed the writ petition preferred by the appellant and affirmed the orders passed by the authorities under the *Urban Land (Ceiling and Regulation) Act, 1976* holding that the appeal preferred by the appellant before the Commissioner Jabalpur Division being an appeal under Section 33 of the aforesaid Act was barred by time.

3. It is submitted before us that the Parliament enacted the *Urban Land (Ceiling and Regulation) Repeal Act, 1999* (Act No. 45/99) which received the assent of the President on 22nd March, 1999 but which is deemed to have come into force in the States of Haryana and Punjab and in all the Union territories on the 11th day of January, 1999 and in any other State which adopts this Act under clause (2) of Article 252 of the Constitution of India on the date of such adoption. It is the further submission of counsel for the appellant on the basis of the notification produced before us dated 9th March, 2000, that in exercise of the power conferred under clause (2) of Article 252 of the Constitution of India, the said Act has been adopted by the State of Madhya Pradesh by a resolution which was notified in the Gazette on 9th March, 2000, and which specifies 17th February, 2000 as the date which effect from which the said resolution operates.

4. We have perused the aforesaid Repeal Act of 1999 which has been adopted by the State of Madhya Pradesh and we find that under Section 3 the repeal of the principal Act does not affect the vesting of any vacant land under sub-Section (3) of Section 10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority. There are some other

provisions in the said Section which are relevant in deciding the question as to whether the repeal shall affect such vesting. Sub-Section (4) of Section 3 provides that all proceedings relating to any order made or purported to be made under the principle Act pending immediately before the commencement of this Act, before any court, tribunal or other authority shall abate. The proviso to the said sub-Section is not relevant for the disposal of this appeal.

5. Counsel for the appellant submits that possession of the land has never been taken by the State or any person authorised by the State. On the other hand, counsel for the State submits that possession has been taken and as a result thereof the land vests in the State of Madhya Pradesh and is unaffected by the Repeal Act.

6. It is not necessary for us to make an inquiry as to whether the assertion of the appellant is correct or whether the denial by the State is justified. There is no material before us on the basis of which we can record a finding whether the possession of the land has been taken over from the appellant. Hence, for want of relevant material, we cannot go into this question and it is only appropriate that the matter be remitted to the High Court for a decision in accordance with law after giving to the parties opportunity of placing their respective cases before the High Court. We are also not expressing any opinion on the question as to whether sub-Section (4) of Section 3 will apply to the facts of this case in view of the fact that this appeal was pending before this Court when the Repeal Act came into force. That is a matter which may also be considered by the High Court.

7. We, therefore, remit this matter to the High Court to consider the aforesaid questions which arise in this appeal on account of passing of the Repeal Act of 1999 which has been adopted by the State of Madhya Pradesh.

8. The High Court will give opportunity to the parties to place material on record, on the basis of which the High Court may give its decision.

9. The appeal is disposed of accordingly.