

SUPREME COURT OF INDIA

State of Uttaranchal

Vs.

Golden Forest Co. (P) Ltd.

C.A.No.3195_____of 2011

(G.S.Singhvi and Asok Kumar Ganguly,JJ.,)

11.04.2011

JUDGMENT

G.S. Singhvi,J.,

SLP(Civil)No.11741 of 2006

1. Leave granted.

2. The only question which arises for consideration in these appeals is whether the Board of Revenue, U.P. could hear and decide the revisions filed by the appellant after creation of the State of Uttaranchal (renamed as Uttarakhand) by the Uttar Pradesh Reorganisation Act, 2000 (for short "the Reorganisation Act").

3. One Sanjay Ghai had purchased bhumidhari land from various tenure holders in the name of Golden Forest India Limited and its sister concerns, namely, Indian Peace Foundation Trust, Mani Majra, Chandigarh, Golden Forest India Limited, Golden Agro Forest Limited and Golden Forest Distributors Limited. Tehsildar, Dehradun, submitted report dated 12.08.1997 to Assistant Collector 1st Class-cum-Sub Divisional Magistrate (for short "the Assistant Collector") with the finding that the purchases made in the name of the respondents were violative of the restriction contained in Section 154 (1) of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (for short "the Act"). He suggested that action may be initiated against them under Sections 166/167 of the Act and land in excess of the ceiling may be declared to have vested in the State Government. The Assistant Collector issued notice to the respondents, gave them opportunity of hearing and passed order dated 21.08.1997 whereby he held that the disputed transactions were ultra vires the provisions contained in Section 154(1) of the Act and forwarded the matter to Collector, Dehradun for taking action under Section 167(2) of the Act.

4. The respondents challenged the aforesaid order by filing revisions, which were allowed by the Board of Revenue, U.P. vide order dated 24.11.2000 by observing that in terms of

Section 154(1) of the Act each major person or company is entitled to purchase 12.5 acres land and the purchases made in the names of different companies cannot be clubbed for deciding the issue relating to violation of that section

5. The State of Uttar Pradesh challenged the order of the Board of Revenue in Writ Petition No. 81 (M/S) of 2000. The State of Uttaranchal also challenged that order in Writ Petition Nos. 2046 (M/S) -2049(M/S) and 2051(M/S) - 2053(M/S) of 2001 on several grounds including the one that after coming into force of the Reorganisation Act, the Board of Revenue, U.P. did not have the jurisdiction to deal with and decide the revisions filed by the respondents.

6. The Learned Single Judge did not deal with the issue of jurisdiction and dismissed the writ petitions by observing that the conclusion recorded by the Board of Revenue, U.P. on the legality of the disputed transaction was correct.

7. Shri Mukul Rohtagi, learned senior counsel appearing for the appellant argued that in view of Section 91 of the Reorganisation Act, the proceedings pending before the Board of Revenue, U.P. stood transferred to the newly created State of Uttaranchal and, as such, it did not have the jurisdiction to decide the revisions filed by the respondents. Learned senior counsel pointed out that the Reorganisation Act had come into force w.e.f. 09.11.2000 and, therefore, the Board of Revenue, U.P. could not have decided the revisions on 24.11.2000.

8. Shri Vijay Hansaria, learned senior counsel appearing for the respondents argued that the appellant cannot question the orders passed by the Board of Revenue, U.P. on the ground of lack of jurisdiction because no such objection was raised at the hearing of the revision petitions. Learned senior counsel further argued that this Court may not interfere with the impugned order because the land purchased in the names of the respondents had already been divided into plots and allotted to various persons, who are not parties in these cases.

9. We have considered the respective submissions. Section 91 of the Reorganisation Act reads thus:

"91. Transfer of pending proceedings.--(1) Every proceeding pending immediately before the appointed day before a court (other than High Court), tribunal, authority or officer in any area which on that day falls within the State of Uttar Pradesh shall, if it is a proceeding relating exclusively to the territory, which as from that day are the territories of Uttaranchal State, stand transferred to the corresponding court, tribunal, authority or officer of that State.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1) it shall be referred to the High Court at Allahabad and the decision of that High Court shall be final.

(3) In this section—

(a) "proceeding" includes any suit, case or appeal; and

(b) "corresponding court, tribunal, authority or officer" in the State of Uttaranchal means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Uttar Pradesh to be the corresponding court, tribunal, authority or officer."

10. A reading of the plain language of the above reproduced provision makes it clear that every proceeding pending before a Court, Tribunal, Authority or Officer in any area which fell within the State of U.P. on 09.11.2000 stood automatically transferred to the corresponding Court, Tribunal, Authority or Officer of the State of Uttaranchal (now Uttrakhand). Therefore, the revisions which were pending before the Board of Revenue, U.P. on 9.11.2000 stood transferred to the State of Uttaranchal and, as such, the same could not have been decided by the Board of Revenue, U.P. Unfortunately, the learned Single Judge over looked the fatal flaw in the order of the Board of Revenue, U.P. and pronounced upon the legality of the purchases made in the names of the respondents.

11. In the result, the appeals are allowed. The impugned order as also the order passed by the Board of Revenue, U.P. are set aside and it is declared that the revisions filed by the respondents stood transferred to the Board of Revenue, State of Uttaranchal. The Board of Revenue, U.P. is directed to transmit the record of the revision petitions to the Board of Revenue of the State of Uttrakhand which shall decide the revision petitions afresh. If there is no Board of Revenue in the State of Uttrakhand then the record shall be transferred to the corresponding adjudicating authority. The respondents shall furnish the list of allottees of plots along with their latest addresses to the Board of Revenue, Uttrakhand or any other competent adjudicating authority within a period of four weeks from today. Thereafter, the allottees be impleaded as parties to the pending revisions and appropriate order be passed in accordance with law after hearing all the parties.