

ALLAHABAD HIGH COURT

Kshetrapal Singh

Vs

State of Uttar Pradesh

(K.N. Seth, J.)

22.10.1975

JUDGEMENT

K.N. Seth, J.

(1.) THE above noted petitions raise a common question and may conveniently be disposed of by a common judgment.

(2.) THE Petitioners are tenure holders to whom notices, together with copy of the statements prepared under Sub -section (1), have been issued under Sub -section (2) of Section 10 of the U.P. Imposition of Ceiling on Land Holdings Act (hereinafter referred to as the Ceiling Act). Some of the Petitioners filed objections challenging the correctness of the statements prepared by the Prescribed Authority. Thereafter they made applications to the Prescribed Authority asserting that as the villages where their holdings are situate have come under consolidation operations consequent to notifications issued under Section 4(2) of the U.P. Consolidation of Holdings Act (hereinafter referred to as the Consolidation Act), the proceedings under the Ceiling Act cannot continue and should be abated and may be revived after the consolidation operations are complete and notifications under Section 52 of the Consolidation Act are issued. The Prescribed Authority rejected the applications. The view taken by the Prescribed Authority has been challenged in some of the petitions noted above. Other Petitioners have approached this Court challenging the validity of the notices issued under Section 10(2) of the Ceiling Act as also the validity of the U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 (U.P. Act No. 18 of 1973) on the ground that the said Act is ultra vires as its provisions are violative of Articles 14, 19 and 31 of the Constitution. During the course of hearing the Petitioners specifically gave up the challenge to the validity of the various provisions of the Act and confined their submissions to the question whether the proceedings under the Ceiling Act can be validly continued in view of the fact that the villages where the holdings of the Petitioners are situate are under consolidation operations. It was contended that in view of Section 5(2) of the Consolidation Act proceedings under the Ceiling Act cannot continue and are liable to be abated. It was urged that so long as the villages in question are under Consolidation operations and notifications under Section 52 of the Consolidation Act are not issued, the Respondents are not competent to continue with the proceedings under the Ceiling Act and decide disputes about rights and interest in the land. It was further urged that till the consolidation proceedings conclude the Petitioners cannot be certain about their rights or interest in any land and cannot

exercise their choice under Section 12 -A of the Ceiling Act in some cases they may even be left with land below the ceiling limit.

(3.) IN support of the contention that the proceedings under the Ceiling Act should be declared to have Abated reference was made to Sub -section (2) of Section 5 of the Consolidation Act, which provides: (2)... (a) every proceeding for the correction of records and every suit and proceeding in respect of declaration of rights or interest in any land lying in the area, or for declaration or adjudication of any other right in regard to which proceedings can or ought to be taken under this Act, pending before any court or authority whether of the first instance or of appeal, reference or revision, shall, on an order passed in this behalf by the court or authority before whom such suit or proceeding is pending stand abated: Reliance was placed on the decision of the Supreme Court to the Agricultural and *Industrial Syndicate Ltd. v. State of U.P.* : wherein it has been held that the Prescribed Authority acting under Sections 10(2) and 12 of the Ceiling Act is an Authority within the meaning of that expression in Section 5(2) of the Consolidation Act and the proceeding before him will be a proceeding within the meaning of the said word in Section 5(2). The Court further held that the Prescribed Authority is required to decide under Section 12 whether the tenure holder has any rights or interest in all or some of the plots. He has also to adjudicate upon the claims that may be made by other rival claimants. The State Government is a party to every proceeding under the Ceiling Act as provided by Section 32. In this view of the matter the proceeding under Section 12 of the Ceiling Act is a proceeding "in respect of declaration of rights or interest in any land" under Section 5(2) of the Consolidation Act and consequently the proceedings under the Ceiling Act cannot continue so long as the consolidation operations are going on and those proceedings must be abated but may be resumed after the notification under Section 52. ;

Cases Referred.

1AIR 1974 SC 1920