

A STATE OF RAJASTHAN AND ANR.
v.
SMT. AMARJEET KAUR AND ORS.

DECEMBER 12, 2002

B [SYED SHAH MOHAMMED QUADRI AND ARIJIT PASAYAT, JJ.]

Rajasthan (Imposition of Ceiling on Agricultural Holdings) Act, 1973;

C Ss. 2(q) and 15(2)—*Land of respondent-tenureholders determined under Rajasthan Tenancy Act, 1955 and they were found not in possession of surplus land—Later, on coming into force of 1973 Act, tenureholder found in possession of surplus land—Deputy Secretary, u/s 15(2) of 1973 Act, re-opening the order passed under 1955 Act, and directing Additional Collector to determine ceiling area—Held the effect of the provisions of 1973 Act is that where the ceiling area determined under the said Act exceeds the ceiling area determined under 1955 Act, it will be the lesser area that would be applicable to a person—1973 Act places the State in an advantageous position irrespective of the extent of the ceiling area determined under 1955 Act or 1973 Act—Even if area determined under 1955 Act is more than that determined under 1973 Act, State alone will get advantage—Therefore, no useful purpose would be served by re-opening the old proceedings—Appeals of land holders dismissed.*

E *State of Rajasthan v. Prithvi Singh, (1986) R.L.R. 32; Sumitra Kaur v. Authorised Officer (SDO) and Ors., (1977) 27 I.L.R. 995 and Bansidhar v. State of Rajasthan, [1989] 2 SCC 557, referred to.*

F CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1520-22 of 1994.

G From the Judgment and Order dated 9.3.1987 of the Rajasthan High Court in D.B. Civil Writ Petition Nos. 1029 of 1986, 1054 of 1986 and 1056 of 1986.

WITH

Contempt Petition (C) No. 220 of 1993.

Ms. Sandhya Goswami for the Appellants.

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K.R. Sasiprabhu (N/P) for the contemnor.

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K.R. Gupta, R.C. Gubrele and Dinesh Sharma for the Respondents.

The following Order of the Court was delivered :

C.A.Nos. 1520-22 of 1994:

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The State of Rajasthan is in appeal against the common order of a Division Bench of the High Court of Rajasthan at Jaipur in Civil Writ Petition Nos. 1029, 1054 and 1956 of 1986, dated March 9, 1987.

The facts, insofar as they are relevant for our purpose, may briefly be noted here.

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The respondents are landholders under the provisions of the Rajasthan Tenancy Act, 1955 (for short, 'the 1955 Act'). The holding of the respondents was determined by the Sub-Divisional Officer, Baran on January 14, 1971. It was found that the respondents did not possess surplus land. While so, the Rajasthan (Imposition of Ceiling on Agricultural Holdings) Act, 1973 (for short, 'the 1973 Act') came into force on January 1, 1973. The lands held by the respondents were again subjected to enquiry under the 1973 Act and by order dated February 28, 1976, the authorised officer decided that the respondents were having surplus land. The respondents filed an appeal before the Additional Collector, Kota—the appellate authority under the Act—who remanded the matter to the authorised officer. The authorised officer, after further enquiry, arrived at the same conclusion which was reflected in his order passed on February 28, 1976. The matter was again taken in appeal to the Additional Collector, Kota, who, by his order dated April 4, 1985, again remanded the case to the authorised officer for fresh consideration under the 1973 Act. While the matter was pending before the Assistant Collector, in exercise of the power conferred under Sub-Section (2) of Section 15 of the 1973 Act, the Deputy Secretary to the Government of Rajasthan, reopened the order passed by the Sub-Divisional Officer, Baran under the 1955 Act on January 14, 1971 and directed the Additional Collector, Kota to enquire into the matter and determine the ceiling area of the respondents. The Additional Collector, accordingly, by order dated November 5, 1979, found that the lands held by the respondents were in excess of the ceiling limit. Against that order, appeals were taken unsuccessfully to the Board of Revenue. It appears that a review petition was also filed by the respondents before the Board of Revenue but that also resulted in dismissal. Aggrieved thereby, the respondents

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- A filed three writ petitions before the High Court of Rajasthan. The High Court, by the order under challenge, quashed the orders of the Deputy Secretary, Additional Collector and the Board of Revenue insofar as they relate to the re-opening of the proceedings under Section 15(2) of the 1973 Act and the consequential orders and further observed that the proceedings would continue before the Assistant Collector, Shahbad, pursuant to the order of remand and
- B that he would be free to decide the ceiling area in accordance with the observations made in the order. Aggrieved by the said order, the State is in appeal before us.

- C It is relevant to note here that Section 2 of the 1973 Act which defines various expressions used therein provides in clause (q) thereof that words and expressions defined in the Rajasthan Tenancy Act, 1955 and in the Rajasthan Land Revenue Act, 1956 shall, wherever used in the 1973 Act, have to be construed to have the meanings assigned to them by the said Acts. Further, the second proviso to sub-section (1) of Section 4 provides that if the ceiling area applicable to any person or family in accordance with that section exceeds
- D the ceiling area applicable to said person or family according to the provisions of law repealed by Section 40, then in the case the ceiling area applicable to such person or family will be the same as was determined under the provisions of the said repealed Act. The effect of the provisions of the 1973 Act is that where the ceiling area determined under the 1973 Act exceeds the ceiling
- E area determined under the 1955 Act, it will be the lesser area that would be applicable to a person. The 1973 Act places the State in an advantageous position irrespective of the extent of the ceiling area determined under the 1955 Act or the 1973 Act. Even if the area determined under the 1955 Act is more than the area determined under the 1973 Act the State alone will get the advantage.

- F The learned Government pleader, who appeared before the High Court, relied upon the judgment of the High Court in *State of Rajasthan v. Prithvi Singh*, (1986) R.L.R. 32 and the High Court accepted the submission and directed as follows:

- G “It is, however, made clear that in proceedings which would now continue before the Assistant Collector, Shahbad, the Assistant Collector would be free to decide the ceiling case in accordance with the observations made above as well as in accordance with the principles enunciated in *Prithvi Singh’s* case supra.”

- H For these reasons, no useful purpose would be served by re-opening the

old proceedings, particularly, in view of the fact that the determination of the area under the 1973 Act even if found to be more is of no consequence and would not accrue to the benefit of the respondents. A

Learned counsel for the appellants relied upon the judgment of the High Court of Rajasthan in *Sumitra Kaur v. Authorised Officer (SDO) and Ors.*, (1977) 27 I.L.R. 995 and the judgment of a Constitution Bench of this Court in *Bansidhar v. State of Rajasthan*, [1989] 2 SCC 557 in support of her contention that parallel proceedings under the 1955 Act as well as the 1973 Act can continue simultaneously. We find no support from the said judgments for the proposition urged by the learned counsel. B

In this view of the matter, we do not find any merit in the appeals. They are dismissed. C

Having regard to the facts and circumstances of the case, we make no order as to costs.

Contempt Petition (C) No. 220/1993: D

The contempt petition is dismissed.

R.P.

Appeal/Petition dismissed.