

Phoolchand Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : May-15-2013

Appellant : Phoolchand

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. R. Parashar

Judgement :

HIGH COURT OF MADHYA PRADESH : AT JABALPUR Writ Petition No :

9194. of 2013 Phoolchand and others - V/s - State of MP & Collector, District, Narsinghpur.

Present : Honble Shri Justice Rajendra Menon.

----- Shri R.

Parashar, counsel for the petitioners. Shri Vivek Agrawal, GA, for the respondents.

----- Whether
approved for reporting: Yes / No.

ORDER

15/05/2013 Petitioners claim to be in possession of certain agricultural land, which was given to their ancestors much prior to coming into force of the M P Land Revenue Code, 1950 (hereinafter referred to as Code). It is stated that in the

settlement process that was conducted sometime in the year 1923-1924, the then Zamindars / Malgujars of the land gave the land to the ancestors of the petitioners as they were working as Kotwars and since then the petitioners are in possession of the land in question.

2- Inter alia contending that certain circulars have been issued by the State Government whereby persons like the petitioners have been treated to be entitled to Bhumiswami rights over the land and the Chhattisgarh High Court under similar circumstances has granted relief to persons similarly situated, whereas benefit of declaration as Bhumiswami for the land in question is denied to the petitioners. This writ petition is filed.

3- In sum and substance, it is the case of the petitioners that as the land in question was given to them by the Malgujars much before the coming into force of the Code, by virtue of the policies and circulars applicable in the matter as issued by the State Government from time to time and crystallized into Annexure P/3 dated 3.3.2010, it is stated that the petitioners are entitled to the benefit and as the same is not extended to them, they are before this Court.

4- Under similar circumstances, writ petition was filed before this Court being Writ Petition No.939/2009 (Shankarlal and others versus Collector, District Narsinghpur and others).and this petition was disposed of on 17.1.2013.

In the reply filed in the said writ petition, the State Government has admitted issuance of the circular dated 3.3.2003 by the Revenue Department and it is said that based on certain declaration made by the Chief Minister a policy decision has been taken by the State Government with regard to grant of Bhumiswami rights to the Kotwar. In the return filed in the case of Shankarlal (supra).it was further pointed out that if the Village Kotwar has been granted the benefit of allotment of land by the Malgujars then such cases are to be examined and if a right has accrued to them before coming into force of the MP Land Revenue Code, it is stated that they are entitled to certain benefits.

5- From the aforesaid narration of fact and on a perusal of the requirement of the circular - Annexure P/3 dated 3.3.2010, as per this policy every individual claim

has to be examined and if it is found that the land in question was given to the person concerned because he or his ancestor was a Kotwar and the land was given by the Malgujar on such consideration then individual cases have to be examined and a decision taken.

6- That apart, State of Chhattisgarh has also implemented similar policies and cases of individuals have been examined and a decision taken.

7- In the present case, petitioners claim have not been examined in the light of the circulars as are issued by the State Government from time to time and as the cases of individuals have not been examined, it is a fit case where the competent authority of the Government should be directed to examine the case of each individual petitioners on its own merits and after evaluating the same in the light of the requirements of the policies and circulars of the State Government, as contained in Annexure P/3 dated 3.3.2010, or any other circular in this regard issued earlier or subsequently, decide the claim of each of the individual in accordance to law by a speaking order within a period of six months from the date of receipt of certified copy of this order.

8- Petitioners shall submit a detailed claim indicating the particulars of the land, the period when it was given and other details necessary for deciding his claim.

The competent authority shall examine the claim in accordance to the requirement of the circulars as indicated hereinabove and take a decision within a period of six months, and communicate the decision to the petitioners.9- With the aforesaid, the petition stands disposed of.

(RAJENDRA MENo.) JUDGE Aks/-

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