

Babool Singh Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Jan-07-1980

Reported in : AIR1980All173

Judge : R.M. Sahai, J.

Acts : Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1961 - Sections 3(7), 5 and 6

Appeal No. : Civil Misc. Writ Petn. No. 2341 of 1978

Appellant : Babool Singh

Respondent : State of U.P. and ors.

Advocate for Pet/Ap. : H.S.N. Tripathi, Adv.

Disposition : Petition allowed

Judgement :
ORDER

R.M. Sahai, J.

1. In this petition directed against order passed by 6th Additional District Judge the question that survives for consideration is whether appellate authority was justified in rejecting claim of petitioner in respect of three minor unmarried daughters and

whether land which was abadi could be taken into account for consideration of surplus land under U. P. Imposition of Ceiling on Land Holdings Act.

2. The appellate authority found that all the three daughters of petitioner were minors and it was claimed on his behalf that they were unmarried. In rebuttal the State does not appear to have led any evidence. He disallowed the claim of petitioner only because it is not uncommon to find early marriage amongst villagers. It may be that early marriages may be taking place in villages but that is no ground for drawing an inference that petitioner's daughters were married during minority. It was to be decided on evidence on record. If the petitioner stated that his daughters were unmarried it was for the State to establish whether these daughters were married or unmarried. The revising authority therefore committed an error in recording finding that the daughters of petitioners were married without referring to any evidence on record.

3. As regards abadi it need not be emphasised that an abadi is not land as defined in Ceiling Act and if it is not land it could not be taken into account for determining surplus area. The exemption granted under Section 6 is for house standing on land, that is, land which is bhumidhari or sirdari. It therefore could not be a ground for rejecting claim of petitioner on this ground.

4. In the result this petition succeeds and is allowed. The order passed by Additional District Judge is set aside. He shall decide the appeal in the light of observations made above. The parties shall bear their own costs.

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