

**Prakash Singh and Others Vs. State of U.P. and Others**

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**Court :** Allahabad

**Decided On :** Aug-28-1998

**Reported in :** 1998(3)AWC2391

**Judge :** Alope Chakrabarti, J.

**Acts :** Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 - Sections 13A

**Appeal No. :** C.M.W.P. No. 154 of 1994

**Appellant :** Prakash Singh and Others

**Respondent :** State of U.P. and Others

**Advocate for Def. :** S.C.

**Advocate for Pet/Ap. :** Subodh Kumar, Adv.

**Judgement :**

**Alope Chakrabarti, J.**

1. Proceedings under Section 10 (2) of U. P. Imposition of Ceiling on Land Holdings Act, 1960 were initiated in respect of agricultural lands of Prakash Singh. Harpal Singh and Dilip Kaur wherein by order dated 30.4.1983, it was decided that an area of 2.20 acres is surplus land of Smt. Dilip Kaur and 2.22 acres of each of

other two persons. Three appeals were preferred against the said order which were dismissed. The present petitioners moved application under Section 13A of the said Act to give effect to the said order dated 30.4.1983 and firstly an area of 18.4 acres each may be measured, only then surplus land can be taken into possession. By order dated 22.1.1983, the said application was rejected. Appeals filed against them were also dismissed.

With the aforesaid contentions and challenging the said orders, this writ petition was filed.

2. Counter-affidavit and rejoinder-affidavit were filed.

3. After perusing the materials on records and hearing the learned counsel for the petitioners, it appears that the original three owners sold the land to four persons on 24.1.1971 and each having purchased twelve and half acres, total land sold was 50 acres. Surplus land was declared under the Ceiling Act on 31.12.1974 holding that there was an excess land of 56-57 acres and this finding was confirmed upto Hon'ble Supreme Court. The purchasers filed an application on 19.3.1981 for cancellation of order dated 31.12.1974 and for allowing them to file objection and the same was rejected by order dated 24.3.1981. The appeals preferred against the same were allowed on 28.11.1981 and applications were remanded. All three said proceedings were consolidated and by order dated 30.4.1983, 6.67 acres of lands were declared surplus. The appeal filed against the same was dismissed on 28.4.1987.

4. The contention of the learned counsel for the petitioners is that during consolidation proceeding on a physical verification of land, it was found that the actual land existing there is much less and, therefore, the application under Section 13A was filed so that the petitioners get the land purchased by them. It is contended that as upon physical verification during consolidation proceeding, the actual measurement of land was known, the said application could be filed thereafter.

5. Learned counsel for the respondents contended that the scope of application under Section 13A permits only for correction which are appearing on the face of

record and it is more or less equivalent to power of review of civil court. Reference was made to the case of Bhanu Pratap Singh v. State of U. P. and others, 1981 ALR (SOC) 89. Contention was also made that the subsequent changes brought after detection during consolidation proceeding will not entitle the parties to avail of the provision of Section 13A. It is contended that admittedly the land was dealt with original owners and were sold in year 1971 which raises a presumption that the actual lands sold there were measured and received by the purchaser on physical verification and so the subsequent detection after consolidation proceeding cannot be accepted. A further contention was made as regards limitation of two years alleging that the application under Section 13A was time barred.

6. After considering the respective contentions of the parties. I find that apparently the proceedings were allowed to be finalised making the position final amongst all the parties and the present petitioners also represented all through even at some stage through their vendors. Upon perusal of facts involved here and the provisions of Section 13A. I am of the opinion that the requirement of the petitioners to get the land further verified physically alleging existence of lesser land, does not come within the provision of Section 13A. Apparently such material cannot be covered by the expression 'any mistake apparent on the face of record'.

7. Further when the lands were actually dealt with and sold to the petitioners by the original owners, there is no reason for presuming that upon such transfer, the transferee did not take possession after making physical verification thereof. Therefore, the case made out by the present petitioners of detection at the subsequent stage can also not be accepted.

8. On the question of limitation it was contended that the application under Section 13A is barred by limitation. As there was no notification issued under Section 14 (4), no finding can be arrived at against the petitioners on the said ground.

9. Law has been referred to by the respective parties as decided in the case of Satya Pal Singh v. State of U. P. and others, 1979 All LJ 1269 ; Mohd. Hayat Khan v. State of U. P. and others, 1989 All LJ 1317 ; Zile Singh v. State of U. P. and others. 1978 AH LJ 772 ; Ram Charan v. State of U. P. and others, 1978 AWC

677 and the case of Savitri Devi v. Commissioner, Jhansi. 1992 RD 39.

10. In the facts of the present case and in view of the law as relied on by the respective parties, I do not find that there is any ground for interference on such contention of the petitioners and therefore the writ petition is dismissed. There will be no order as to costs.

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