RamnaraIn and ors. Vs. the State of M.P. and ors.

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Court : Madhya Pradesh

Decided On : Sep-30-1980

Reported in : AIR1981MP169; 1981MPLJ160

Judge : K.K. Dubey and ;H.G. Mishra, JJ.

Acts : Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 - Sections 4(3)

Appeal No. : Misc. Petn. No. 38 of 1979

Appellant : RamnaraIn and ors.

Respondent : The State of M.P. and ors.

Advocate for Def. : M.A. Shah, Dy. Govt, Adv.

Advocate for Pet/Ap. : V.K. Sapre, Adv.

Disposition : Petition allowed

Judgement :

Mishra, J.

1. This is a petition under Article 226 read with Article 227 of the Constitution of India for issuance of a writ of certiorari and or any other writ, order or direction for quashing the order passed by the Board of Revenue M. P. Gwalior (Annexure XXV) dated 23-9-1978, affirming order passed by the Competent Authority, Khurai

(Annexure-XXIV) dated 28-9-1977.

2. Briefly stated the petitioner's case is that Ramnarain, petitioner No. 1, his wife Asharani, petitioner No. 2 and their four sons (Khalaksingh and others) were holders of the land in question. Petitioner No. 1 entered into agreements for sale (Annexures I, II and III) in respect of certain lands with Lallansingh, Halkai and Shitalprasad and put them in possession thereof. Thereafter, the said land was transferred under three registered sale deeds dated 6-4-1972 (Annexures VIII, IX and X).

3. On initiation of proceedings under the Madhya Pradesh Ceiling on Agricultural Holdings Act 1960 (Act No. 20 of 1960) (hereinafter referred to as the Act), the petitioners defended the transfers in question on the ground that they were neither made in anticipation of nor to defeat the provisions of the Act. In the enquiry before the Competent Authority, documentary as well as oral evidence was led by the petitioners. By order D/-28-9-1977 (Annexure XXIV), the Competent Authority declared the transfers in question to be void. Aggrieved by this order, the petitioners preferred appeal to the Board of Revenue which has been dismissed bv the impugned order. Hence this petition.

4. In this petition the petitioners contend that the order passed by the Board of Revenue is not a judicial decision. The petition is resisted by the State Government and the Competent Author- ity on the ground that the impugned order meets all the requirements of law and it being an order in affirmance, need not be elaborate.

5. We have perused the impugned order passed by the Tribunal, Paras I, 2 and 3 consist of a re'sume' of facts. In para 4 grounds raised in appeal and in para 5 arguments advanced on behalf of the appellant have been condensed. Para 6 proceeds with an observation that the case is 'highly complicated one' and immediately thereafter concludes that the view taken by the Competent Authority does not call for any interference. In para 7 it is simply stated that other grounds agitated have been considered above. This is the long and short of the order passed by the Tribunal which is to operate as final by virtue of Section 4 (3) of the Act.

6. The following dictum laid down by Broadway and Abdul Qadir, JJ. in Balwantsingh v. Baldev Singh, AIR 1921 Lah 119 appears to be apt in its application to the order passed by the Tribunal in this case :

'Where the judgment of the Court is practically nothing but a recapitulation of the arguments of counsel with a brief indication of the court's opinion with regard to the said arguments the judgment cannot be regarded as satisfactory,'

As such, the order passed by the Tribunal is bad in law. We would like to make it clear that the Tribunal has failed to discharge duty cast on it by law, while deciding the appeal under Section 4 (3) of the Act. Such an appeal lies on question of fact as to operate final. It was bounden duty of the Tribunal to have (actively evaluated documentary as well jas oral evidence on record. The impugn-ed order does not disclose application of judicial mind to the lis before the Tribunal. As such, the order passed by the Tribunal (Annexure XXV) cannot be regarded a judicial decision.

7. On this short point the petition deserves to be allowed and is hereby allowed. The impugned order passed by the Tribunal dated 23-9-1978 (Annexure XXV) is hereby quashed. The case will go to the Tribunal with the direction that the case will be decided de novo in accordance with law and observations made hereinabove. In the facts and circumstances of the case, there will be no order as to costs. The outstanding amount of security shall be refunded to the petitioner.