

Azad and Others Vs. Dharampal and Others

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Court : Supreme Court of India

Decided On : Nov-07-1996

Reported in : JT1998(7)SC211; 1999(1)SCALE196; (1998)9SCC161

Judge : N.P. Singh and; S.B. Majmudar, JJ.

Acts : Haryana Ceiling on Land Holdings Act, 1972 - Sections 26(1); Pepsu Tenancy Agricultural Lands Act, 1955

Appeal No. : C.A. No. 3667 of 1986

Appellant : Azad and Others

Respondent : Dharampal and Others

Judgement :

ORDER

1. The appellants are the allottees of the lands which had been declared surplus in the year 1960 under the provisions of the Pepsu Tenancy Agricultural Lands Act, 1955. The plaintiffs-respondents (hereinafter referred to as 'respondents') are the heirs of the original landholder Ganga Sahai who died on 17-5-1967.

2. It appears that the State Government allotted the lands in question in the year 1980 to the appellants treating them as landless. In the same year a suit was filed on behalf of the respondents, alleging that the declaration of the lands as surplus was not complete because the said lands had not been utilised and as such no

allotment could have been made in favour of the appellants. That suit was decreed by the trial Court. The High Court dismissed the second appeal filed on behalf of the appellants.

3. In this appeal the judgment and decree of the trial court, court of appeal and the High Court have been challenged.

4. It was urged on behalf of the appellants that civil court had no jurisdiction to entertain the suit in question filed on behalf of the respondents, in view of Section 26(1)(b) of the Haryana Ceiling on Land Holdings Act, 1972 which is as follows :

26. Bar of jurisdiction.- (1) No civil court shall have jurisdiction to:

(a) entertain or proceed with a suit for specific performance of a contract for transfer of land which affects the right of the State Government to the surplus area under this Act; or

(b) settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the Financial Commissioner, the Collector or the Prescribed Authority.

(2) No order of the Financial Commissioner, the Commissioner, the Collector or the prescribed authority made under or in pursuance of this Act shall be called in question in any court.

The bar of the jurisdiction of the civil court has been considered by this Court from time to time and recently it has been examined in the case of Shiv Kumar Chandha v. Municipal Corpn. of Delhi, : [1993]3SCR522 by a Bench of three Judges.

5. According to us in view of clear bar proscribed by Section 26(1)(b) of the Haryana Ceiling of Land Holdings Act, 1972 the suit filed on behalf of the respondents was not maintainable. Accordingly, we allow this appeal and dismiss the suit filed on behalf of the respondents. There shall be no order as to costs.

6. We make it clear that we are not expressing any opinion on the merits of the claim made on behalf of the respondents.

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