

Mani Vs. Devku

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Court : Delhi

Decided On : Sep-16-1970

Reported in : 7(1971)DLT178

Judge : P.N. Khanna, J.

Acts : Himachal Pradesh Abolition of Big Landed Estate and Land Reform Act, 1953 - Sections 27(4)

Appeal No. : Miscellaneous Second Appeal No. 45 of 1968

Appellant : Mani

Respondent : Devku

Advocate for Pet/Ap. : K.D. Sood and; R.K. Gupta, Advs

Judgement :

P.N. Khanna, J.

(1) This miscellaneous second appeal is directed against the judgment dated August 17. 1968 of the District Judge, Mandi, who set aside the order of the Compensation Officer granting the proprietary rights in the land in dispute to the appellant alone and instead granted the same to the appellant and the respondent in equal shares.

(2) The land in dispute previously belonged to Shri Rajkumar Ashokpal Singh. It came to be vested in the Government under section 27(i) of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act (hereinafter to be called the Act). In proceedings for transferring the right, title and interest of the landowner to the cultivating tenants, the Compensation Officer upheld the right of Mani, the appellant alone.

(3) In the revenue records the names of Reshma widow of Maheshwar, Devka widow of Roda and Mani son of Ditta, were recorded as the cultivating tenants, all the three in equal shares. On the death of Reshma her daughter Hima had no share in the said cultivating rights. The same, therefore, came to be enjoyed by Mani, the appellant, and Devku, the respondents, in equal shares. On March 8, 1967, a Joint statement of Mani, the appellant, Devku, the respondent and Hima daughter of Reshma deceased was recorded by the Compensation Officer wherein they stated that the area was under their cultivation and that the proprietary rights be granted in their favor and further that they were prepared to pay the compensation. The Compensation Officer by his order dated October 2, 1967 granted the proprietary rights in favor of Mani, the appellant, alone.

(4) On appeal by Devku, respondent the learned District Judge, Mandi by his order under appeal set aside the said order of the Compensation Officer and granted the proprietary rights in favor of Devku, the respondent and Mani, the appellant, in equal shares. He also ordered that the compensation was to be paid equally by them. Devku was directed to pay half the compensation amount to Mani if the whole of it was found to have been deposited by her, whereupon she would be declared entitled to her half share in the said land. Devku was also allowed to deposit the amount of her share with the Compensation Officer, if Mani did not accept it from her. It was also stated in the order under appeal that Mani the present appellant, had no objection in parting with the half share to Devku provided she paid her share of the compensation money. The appellant, however, has now come up in second appeal against the said order of the District Judge.

(5) The learned counsel for the appellant has referred to sub-section (4) of Section 27 of the Act which reads as follows :-

'(4)The right, title and interest of the land-owner acquired under sub-section (1) and (2) shall be transferred by the State Government on the payment of compensation in accordance with Schedule I, to such tenant who cultivates such land.'

The expression 'such tenant who cultivates such land', according to him means 'such tenant, who personally cultivates such land'. He, therefore, contended that Mani alone is such a tenant as he is actually cultivating the land may be in his status as a Hissadar. Devku, the respondent not being personally cultivating the land, cannot according to him, be said to be such tenant as is referred to in sub-section (4) of Section 27 of the Act.

(6) The contention of the learned counsel is, however, without substance. It will be noticed that sub-section (2) of Section 27 of the Act reads as follows :-

'(2)Nothing contained in sub-section (1) shall apply in respect of such land which is under the personal cultivation of the landowner.'

(7) The legislature where it intended to refer to 'personal' cultivation, has used the word 'personal'. The word 'personal' not having been used in sub-section (4) of Section 27 of the Act, it cannot be read into the language of that subsection. The Courts are not privileged to introduce words into the language of an enactment which appear to have been deliberately left out by the legislature.

(8) Even otherwise if a cultivator on account of his old-age continues cultivation through his son, for example, he would not be considered to have ceased to be a tenant cultivating such land. Like-wise Devku, the respondent on whose behalf also, the appellant is cultivating the land cannot be said to be not cultivating the land. She has not leased out her share to Mani. The possession of a licensee will remain that of the licensor, who can at any time, turn out the licensee.

(9) In view of the above this appeal has no merit The same is dismissed with cost. Counsel's fee Rs. 50.00.