

State Vs. Bugga Singh and anr.

State Vs. Bugga Singh and anr.

SooperKanoon Citation : sooperkanoon.com/763210

Court : Rajasthan

Decided On : Feb-12-1992

Reported in : 1992WLN(UC)549

Judge : K. Bhatnagar and Rajendra Saxena, JJ.

Appeal No. : D.B. Civil Writ Petition No. 1397 of 1982

Appellant : State

Respondent : Bugga Singh and anr.

Disposition : Petition dismissed

Judgement :

K. Bhatnagar, J.

1. This writ petition filed under Article 226 of the Constitution of India has been directed against the judgment dated 4.9.1980 and order dated 27.1.1981 passed by the learned Member of the Board of Revenue for Rajasthan, whereby, he dismissed the reference submitted by the Additional Collector (Vigilence), Sri Ganganagar, under Section 232 of the Rajasthan Tenancy Act, 1955 (in short the Act) and rejected the review petition filed on behalf of the State.

2. Succinctly stated the facts necessary for the disposal of this writ petition are that the Sub Divisional Officer (Ceiling), Sri Karanpur assessed the agricultural land

held by the assessee under the old Ceiling Act and by his order dated 31.5.1971 recognised a transfer of 19 bighas & 16 biswas of land made by the assessee by way of sale and held that the assessee was in possession of 4 bighas & 7 biswas of land in excess of the ceiling limit. He further held that the said surplus land being a fragment could not be acquired. He, therefore, dropped the proceedings against the assessee. The State Government did not file any appeal against the said order. In the mean while Chapter 3-B of the Act pertaining to old Ceiling Law was repealed and the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 {in short the New Ceiling Act) came into force. The State Government also did not re-open the case under Section 15(2) of the New Ceiling Act during the prescribed period of diritation then in force. The Additional Collector (Vigilence), Sri Ganganagar in the year 1980 submitted the reference under Section 232 of the Act alleging that the Sub Divisional Officer had illegally recognised the transfer of land against the provisions of Section 30 DD of the Act. The learned Member of Revenue Board dismissed the said reference, holding that firstly the reference under Section 232 of the Act in respect of matter under the old Ceiling Act was not maintainable, secondly the Sub Divisional Officer's impugned order was not without jurisdiction and the same did not warrant any interference. The review petition filed by the State Government was also dismissed.

3. We have heard the learned Additional Govt. Advocate and the learned Counsel for the respondents and perused the relevant record.

4. Keeping in view the law laid down in *Banshidhar v. State* by the Full Bench of this Court even after the repeal of the old ceiling law under Chapter III-B of the Act a reference is legally maintainable under Section 232 of the Act. Therefore, this finding of the Lord can not be sustained. However, in the case in hand, the learned Member of the Board has also decided the reference on merits. He has rightly held that the order of the Sub Divisional Officer dropping the proceedings against the assessee under the old ceiling law was not without jurisdiction. Whether the Sub Divisional Officer had rightly recognised the impugned transfer of land or not could have been challenged by the State by filing an appeal in the prescribed period of limitation. More over after the New Ceiling Act came into force in 1973, the State Govt. had the power under Section 15(2) of the said Act to order for re-opening of

the case under the old ceiling law within the prescribed period of limitation. In the Instant case, admittedly, neither any appeal was filed against the order of Sub Divisional Officer nor the State ordered for the re-opening of the case. The learned Member of the Board after satisfying himself as to the legality and the propriety of the order passed by the Sub Divisional Officer was of the opinion that the same did not warrant any interference. In view of this matter, the impugned order passed by the Board does not suffer from any patent illegality or from an error apparent on the fact of the record.

5. In the premise of the above discussion, in our considered opinion, this writ petition is devoid of any merit and the same is hereby dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com