

Ramchandra Singh Vs. the State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Jul-10-1997

Reported in : 1997(2)WLN190

Judge : B.J. Shethna, J.

Appeal No. : S.B. Civil Petition No. 92 of 1988

Appellant : Ramchandra Singh

Respondent : The State of Rajasthan and ors.

Disposition : Petition allowed

Judgement :

B.J. Shethna, J.

1. A short but interesting question of law arise in this petition, i.e. 'Whether the order passed by authorised officer of preparing draft statement Under Section 12(1) of the Rajasthan Imposition of Ceiling on Agricultural Holding Act 1973 (for short the New Ceiling Act) is an Interim order or a final order ?' 'Whether interim orders can be reopened by the State Government in exercise of its powers Under Section 15 of the New Ceiling Act ?'

2. The proceedings initiated against the petitioner under the Old Ceiling Act were dropped on 22.1.1973 by the S.D.O. Bali. Thereafter on coming into force the New

Ceiling Act the petitioner filed his declaration on 30.4.1973 which was registered before the S.D.O. cum-authorised officer, Bali, who by his order dt. 21.1.1975 (Annexure 2) ordered that the draft statement be issued Under Section 12(1) of the New Ceiling Act. Pursuance to that order, draft statement was prepared and published on 30.1.1975 (Annexure- 3). Therefore, the petitioner withdrew his objections and not only that he surrender his surplus land to the State Government on 20.9.1975. Thereafter, the authorised officer prepared and published final statement Under Section 13 of the New Ceiling Act. Thereafter, a notice was issued on 26.6.1979 (Annexure-8) against the petitioner calling upon him to show cause as to why the case should not be reopened by the State Government in exercise of its powers Under Section 15 of the New Ceiling Act as they found that the order passed by the S.D.O. on 21.1.1975 (Annexure-2) was not in accordance with law. Reply to the notice was given on 22.12.1979 (Annexure-9). Thereafter the State Government by an order dt. 20.10.1981 (Annexure-17) decided to reopen the case Under Section 15(1) of the New Ceiling Act against the order dt. 21.1.1975 passed by the S.D.O. Surprisingly the same was communicated to the petitioner only in 1987 by notice dt. 6.7.1987 and the petitioner was called upon to remain present on 12.8.1987 before the Additional Collector, Pali. The petitioner has challenged the impugned order at Annexure-17 before this Court by way of this writ petition on several grounds raised in the petition.

3. Learned Counsel for the petitioner Shri Raj Purohit vehemently submitted that the order at Annexure-2 passed by S.D.O. was an interim order and not a final order, therefore, State Government had no jurisdiction to reopen the case Under Section 15(1) of the New Ceiling Act. He submitted that the case can be reopened Under Section 15(1) of the New Ceiling Act where the final orders have been passed and not against an interim order. He submitted that the order dt. 21.1.1975 was an interim order passed Under Section 12(1) of the New Ceiling Act whereas the final order was passed by the authority Under Section 13 of the New Ceiling Act later on i.e. on 20.9.1975. Relying upon Section 23 of the New Ceiling Act it was submitted that the appeal can lie by any person or State Government aggrieved by any decision or order of the authorised officer passed Under Section 12(3) or 19 and 21 of the New Ceiling Act. He submitted that the appeals can be filed only against the final orders and not against the interim orders. He submitted

that the order at (Annexure-2) was an interim order Under Section 12(1) of the Act against which no, appeal was maintainable. Therefore, he submitted that State Government cannot reopen the case in exercise of powers Under Section 15 of the New Ceiling Act. There is a lot of substance in the submission made by the learned Counsel for the petitioner. From the facts of the case it is clear that earlier order dt. 21.1.1975 (Annexure-2) was passed Under Section 12(1) of the Act of preparing draft statement was an interim order. The final order can be passed only Under Section 13 of the New Ceiling Act after considering the objections raised by the party concerned. In the instant case the final order of preparing and publishing the draft statement was passed on 23.9.1975 (Annexure-4) Under Section 13 of the New Ceiling Act. Therefore, the impugned order at Annexure-17 passed by the State Government to reopen the case against an interim order dt. 21.1.1975 (Annexure-2)' was illegal because the said interim order had merged into the final order which was passed later on i.e. on 23.9.1975. In view of the above discussion this petition is allowed. It is held that the State Government cannot reopen the case against an interim order in exercise of its powers Under Section 15 of the New Ceiling act. The impugned order at Annexure-17 is hereby quashed and set aside. There shall be no order as to costs.