

Ami Chand Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Oct-16-1985

Reported in : 1985WLN(UC)580

Judge : Ashok Kumar Mathur, J.

Appeal No. : S.B. Civil Writ Petition No. 1866 of 1982

Appellant : Ami Chand

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

Ashok Kumar Mathur, J.

1. Petitioner has filed the present writ petition challenging the order dated 28-6-1980 Ex. 4 passed by the Deputy Secretary, Revenue (Ceiling), Government of Rajasthan under Section 15(2) of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (hereinafter referred to as the Act).

2. Petitioner is resident of village Gilwala, Tehsil Tibi, District Sri Ganganagar. On enforcement of the Act, the Authorised Officer after holding a detailed enquiry under the provisions of the Act and Rules held that the petitioner was holding 224 bighas, 8 biswas of land. He further held that the petitioner had 8 members in his

family and after giving adjustment to the land to which he was entitled to hold, he had 122 bighas, 8 biswas of land as surplus and as such the same may be resumed.

3. Petitioner filed an appeal before the Addl. Collector, Ganganagar and he accepted the appeal in part and rejected the rest of the appeal vide his judgment dated 14-9-1976. The Additional Collector held that the petitioner had 47 bighas, 9 biswas of surplus land. Aggrieved against this decision, petitioner preferred an appeal before the Board of Revenue and the learned Member of the Board of Revenue dismissed the appeal vide his decision dated 10-2-1978.

4. Petitioner preferred a writ petition before this Court against the decision of the Board of Revenue which came to be listed as D.B. Civil Writ Petition No. 276 of 1978. Learned counsel for the petitioner invited my attention that this writ petition has been disposed of by this Court on July 2, 1985.

5. The Dy. Secretary, Revenue (Ceiling) issued notice to the petitioner to show cause as to why the matter should not be re-opened. The petitioner did not submit any reply in time and respondent No. 2 passed the order dated 28-6-1980 for re-opening the case decided by the SDO, Hanumangarh on 6-5-1972 under the provisions of Chapter III-B of the Rajasthan Tenancy Act, 1955 as well as the case decided by the Authorised Officer, Hanumangarh on 13-11-1975 and the order dated 14-9-1976 passed by the Additional Collector in appeal. The Dy. Secretary by his order dated 28-6-1980 re-opened the matter. Aggrieved against this, the petitioner preferred this writ petition and he has given explanation for the delay that he was suffering from cancer.

6. The contention of the petitioner is that the Dy. Secretary has committed an error in issuing notice to him for re-opening the matter as he has no jurisdiction to do so. It has further been contended that the order of the Board of Revenue cannot be re-opened once it has become final.

7. I have heard learned counsel for the parties and I find no merit in the petition. Suffice it to say that the validity of Section 15(1) & (2) of Act has already been upheld by the Division Bench of this Court in the case D.B. Special Appeal No.

22.5/82 Sawal Ram v. State, decided on 24-8-1983. Therefore, this challenge that the Dy. Secretary had no jurisdiction is without any basis and power had been conferred on the Dy. Secretary by valid Act and the same has been affirmed and as such this challenge is futile. Secondly it has been challenged that no final order passed by the Board of revenue in such matters shall be directed to be re-opened. This submission is without any force. If the State Government is satisfied that such order is required to be re-opened on account of discovery of new and important fact or evidence which has come into notice due to some mistake order apparent on the face of the record, then such orders can be reopened. Therefore, it can not be said that simply because the order has been confirmed by the Revenue Board in appeal, the Government ceased to have jurisdiction for reopening the same on account of new facts being brought to his notice. Thus this submission of the learned counsel is rejected.

8. In the result, I do not find any force in this writ petition and it is hereby dismissed.