

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.6403 OF 2009

Sheetla Devi & Anr.

....Appellant(s)

VERSUS

State of Uttar Pradesh

...Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. This appeal is directed against the final judgment and order dated 05.01.2008 passed by the High Court of Judicature at Allahabad in C.M.W.P. No.359 of 2008 whereby the High Court dismissed the writ petition filed by the appellants herein.

2. This appeal involves a short point as would be clear from a few facts mentioned hereinbelow.

3. The matter relates to the land, which was subject matter of the ceiling proceedings under the U.P. Imposition of Ceiling of Land Holdings Act, 1960 (hereinafter referred to as "the Act").

4. One Ram Bharose Lal originally held the land in question. The proceedings in relation to his entitlement to hold the land after the Act came into force began on 30.01.1974 with issuance of notice to him under Section 10 (2) of the Act.

5. Since 30.01.1974 till passing of the impugned order by the High Court on 05.01.2000, out of which this appeal arises, the matter relating to the land in question was being dealt with either by the Prescribed Authority or the Appellate Authority under the Act and then by the High Court in its writ jurisdiction in several rounds.

6. On the death of the original holder, his wife-appellant No.1 and son-appellant No.2 herein have been pursuing the matter.

7. By order dated 30.09.1974, the Prescribed Authority, out of the total land measuring 23.12 acres, declared 5.08 acres to be the land in excess of the ceiling limits prescribed under the Act in the hands of the holder of the land.

8. This issue then became the subject matter of the appeals. Eventually, the Prescribed Authority, by order dated 07/14.04.1981, declared 2.90 acres of land to be in excess in the hands of holder of the land. It was accordingly declared surplus for being vested in the State in accordance with the provisions of the Act.

9. The appellants then again raised the issue in second round of litigation and tried to revive the proceedings by making an application for restoration in an appeal which was decided by the Appellate Authority under the Act. They were unsuccessful in their attempt and, therefore, carried the issue in the writ petition, which was dismissed by the High Court,

giving rise to filing of the present appeal by way of special leave in this Court.

10. It is with these background facts, the matter has come to this Court in this appeal.

11. So, the short question is whether the High Court was justified in dismissing the appellants' writ petition.

12. Heard Mr. Anurag Dubey, learned counsel for the appellants and Mr. Tanmaya Agarwal, learned counsel for the respondent-State.

13. Learned counsel for the appellants had mainly argued three points before the High Court unsuccessfully. Those three points were also reiterated before this Court.

14. First, the Appellate Authority while passing the order, which was impugned in the writ petition, did not ensure compliance of the earlier order of the High Court, which was passed in the appellants' writ petition; Second, the appeal before the Appellate

Authority under the Act was not filed by the appellants (writ petitioners) but was filed by some imposter on their behalf and, therefore, inquiry on this question should have been held; and Third, an issue regarding one order as to whether it was merged in the appellate order or not and what is its effect should also have been examined in its proper perspective.

15. In reply, learned counsel for the respondent-State supported the impugned order and prayed for dismissal of the appeal.

16. Having heard the learned counsel for the parties at length and on perusing the record in the light of list of dates filed by the parties, we find no merit in this appeal.

17. The High Court has repelled these arguments and, in our view, rightly.

18. We find that the litigation, out of which this appeal arises and now which is brought to this Court, is pursued by the appellants only with a view to keep

the issue relating to vesting of the land in question alive which stood vested in the State in the year 1981 itself.

19. Indeed, in our view, the excess land measuring 2.90 acres is no more available having stood vested with the State in 1981. There is no ground available to the appellants to revive the ceiling proceedings by taking recourse to filing one application or the other including the one under consideration.

20. The question, as to whether the restoration application should have been allowed or not, was gone into by the Courts below and was rightly rejected. Similarly, the question as to whether the appeal before the Appellate Authority under the Act was filed by some imposter, as alleged by the appellants, was wholly misconceived and was rightly not entertained, and lastly, the issue of merger of order was equally misplaced having no bearing on the issue. All the three arguments, in our view, had no factual and legal

foundation. They were, therefore, rightly rejected by the High Court.

21. In view of the foregoing discussion, the appeal is devoid of any merit. It fails and is accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[DINESH MAHESHWARI]

New Delhi;
March 12, 2019