

IN THE BOARD OF REVENUE FOR RAJASTHAN : AJMER

Appeal No.4700 /2001/Ceiling/Jodhpur :

1. Khuman Singh S/o Shri Panne Singh
 2. Mool Singh S/o Shri Panne Singh
- Both are by caste Rajput, residents of Village
Solkiyan Tala, Tehsil Shergarh, District Jodhpur.

... Appellants.

Versus

State of Rajasthan, through Tehsildar, Shergarh,
District Jodhpur.

... Respondent.

* * *

S.B.

Shri Vijay Kumar Soni, Member

Present :

Shri Virendra Singh : counsel for the appellants.

Shri Shiv Prakash Chaudhary : Dy. Govt. Advocate for the State.

* * *

Dated : 28.6.2018

J U D G M E N T

Present appeal is preferred under section 23 (2A) of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (hereinafter to be referred as "the Act of 1973") against the judgment dated 27.3.2001 passed by learned Additional Collector-I, Jodhpur by which he decided the ceiling reopen matter No. 2/90 titled 'State Vs. Panne Singh' declaring 1.2 standard acre land as ceiling surplus land.

2. The brief facts of this appeal are that Additional Collector-I, Jodhpur initiated the ceiling reopen matter No. 2/90 under section 15(2) of the Act of 1973 titled 'State Vs. Panne Singh' and by his order dated 27.3.2001, he resumed 1.2 standard acre of land as ceiling surplus. Being aggrieved by the judgment dated 27.3.2001, the present appeal is preferred before this court.

3. Heard both the advocates.

4. The main contention of the learned counsel for the appellants is that ceiling surplus 1.2 standard acre land is a fragment as per provision of section 30-I(2) of Old Ceiling Act. The land is situated in Tehsil Shergarh district Jodhpur. As per provision of the Rajasthan Tenancy (Fixation of Ceiling on Land) (Government) Rules, 1963 (hereinafter to be referred as "the Rules of 1963"), Rule 20 Annexure II at Serial No.14, it is mentioned that fragment is 15 acre for Tehsil Shergarh District Jodhpur. Once surplus land is fragment, then authorised officer should have ordered that fragment is to be retained by assessee. It is a mandatory provision which is ignored by the learned lower court. Hence, this appeal is to be allowed and judgment of the learned Additional Collector-I, Jodhpur be set aside.

5. On the other hand, learned Dy. Govt. Advocate argued that judgment passed by learned Additional Collector is well within the purview of law; there is no need to interfere in it. So the present appeal be rejected.

6. I have considered the arguments advanced by learned counsel for the parties and perused the record of the learned lower courts. There is no doubt that Additional Collector-I, Jodhpur declared 1.2 standard acre land as a ceiling surplus. This is a case of Old Ceiling Law. As per section 30-I(2), fragment is to be retained by the assessee. Section 30-I(2) is hereby reproduced as under :-

"30-I. Exceptions of general character -

(2) If in any case covered by clause (a) or clause (b) of sub-Section (1) of Section 30 E the land in excess of the ceiling area applicable thereto is only a fragment, the Sub Divisional Officer may allow the person holding it to retain the possession thereof unless such fragment can be utilised for the consolidation of a contiguous holding smaller in size than the ceiling area applicable to such holding."

7. As per Rule 20 of the Rules of 1963, Annexure II Serial No.14, it says that fragment for the Shergarh Tehsil of District Jodhpur is 15 acre. Therefore, as per Rule 20, 15 acre land is a fragment and in the present case, only 1.2 standard acre land is declared as ceiling surplus. Naturally, 1.2 standard acre land is a fragment. As per provision of section 30-I(2), fragment is to be retained by the assessee.

8. As per above consideration, the judgment of learned Additional Collector-I, Jodhpur is against the provisions of law and such judgment cannot be sustained. Hence, this appeal is allowed. The judgment passed by learned Additional Collector-I, Jodhpur dated 27.3.2001 is hereby set aside.

Pronounced in open court.

(Vijay Kumar Soni)
Member