

A

STATE OF U.P. ETC.

v.

MADHO KUMAR SWARUP AND ORS. ETC.

DECEMBER 14, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

C

*U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1972—Section 19—Transitory provisions—Determination of surplus land—Proceedings pending under U.P. Imposition of Ceiling on Land Holdings Act—On Amendment Act coming into force—Abatement of proceedings for determination of surplus land and redetermination thereof.*

D

Proceedings u/s 10 of the U.P. Imposition of Ceiling on Land Holdings Act, 1960, were initiated and ceiling area was determined. The State and the aggrieved person against the order of the prescribed authorities had filed these appeals as the controversy had arisen as to the extent of the ceiling area required to be retained by the respondent and surplus land that stood vested in the State.

E

Dismissing these appeals, this Court

F

HELD : Even before the filing of these appeals, the U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 had come into force w.e.f. 8.6.1973. As per section 19 of the Amendment Act, all proceedings for determination of surplus land u/ss 9 to 13, 30 of the Principal Act pending before any court or authority at the time of the commencement of the Amendment Act shall stand abated. Thereafter, ceiling area should be redetermined as per the Amendment Act. The *Proviso* provides procedure for determination of the ceiling area and the manner in which it requires to be done. [677-D, 678-B, E]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1042 of 1977 Etc.

From the Judgment and Order dated 12.4.76 of the Allahabad High Court in S.A. No. 207 of 1974.

H

Satish Chandra and T.L. Garg for the Appellants.

A.B. Rohtagi and A.K. Srivastava for the Respondents/State. A

The following Order of the Court was delivered :

Both the appeals are disposed of by common judgment since the State and the aggrieved persons against the orders of the prescribed authorities etc. have ultimately come to this Court in this appeals. B

It is not necessary to narrate all the facts in detail. Suffice it to state that under Section 10 of U.P. Imposition of Ceiling on Land Holdings Act 1960, (for short, 'the Principal Act'), proceedings were initiated and ceiling area was determined. Thereon controversy has arisen as to the extent of the ceiling area required to be retained by the respondent and surplus land that stood vested in the State which is the subject matter of appeals in this Court. C

Even before their filing, the U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1972 (Act 18 of 1973) (for short, 'the Amendment Act'), had come in to force with effect from June 8, 1973. Section 19 of the Amendment Act provides thus : D

"19. Transitory Provisions -- (1) All proceedings for the determination of surplus land under Section 9, Section 10, Section 11, Section 12, Section 13 or Section 30 of the Principal Act, pending before any court or authority at the time of the commencement of this Act, shall abate and the prescribed authority shall start the proceedings for determination of the ceiling area under that Act afresh by issue of a notice under sub-section (2) of Section 9 of that Act as inserted by this Act : E F

Provided that the ceiling area in such cases shall be determined in the following manner ---

(a) firstly, the ceiling area shall be determined in accordance with the provisions of the principal Act, as stood before its amendment by this Act; G

(b) thereafter, the ceiling area shall re-determined in accordance with the provisions of the Principal Act as amended by this Act." H

- A Sub-section (2) thereof is not material for the purpose of these cases, hence omitted.

- B A reading thereof would show that all proceedings for determination of surplus land under Section 9 to 13, 30 of the Principal Act pending before any court or authority at the time of the commencement of the Amendment Act shall stand abated and the prescribed authority shall start afresh the proceedings for determination of the ceiling area under the Principal Act, by issuance of a notice under sub-Section (2) of Section 9 of the Principal Act as amended by the Amendment Act Ceiling should be determined firstly under the Principal Act as it stood before its amendment by the Amendment Act. Thereafter, ceiling area should be redetermined as per the Amendment Act. The proviso provides procedure for determination of the ceiling area and the manner in which it requires to be done.

- C As per the orders of the prescribed authority on 24.2.1975 placed on record as Annexure 'E' in C.A. No. 1383/78 filed by the respondents in the State appeal, the prescribed authority had redetermined the ceiling area as per provisions of the Amendment Act. Whether the redetermination is in accordance with law is not a controversy before us. So it is not necessary to go into it since the proceedings have to be taken under the Amendment Act. It would be open to the State or the persons concerned to pursue the remedy according to law. As regards the appeals at hand, as a consequence of Section 19, they stand abated.

The appeals are accordingly dismissed but, in the circumstances, without costs.

R.A.

Appeals dismissed.