

AJAB SINGH & ORS. VS. ANTRAM & ORS [2009] INSC 198 (3 FEBRUARY 2009)

Judgment

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL NO._____/2009 (@ SPECIAL LEAVE PETITION (CIVIL) NO.21582 OF 2006) Ajab Singh & Ors. ...Appellants – Versus – Antram & Ors. ...Respondents

GANGULY, J.

1. Leave granted.

2. This appeal arises out of a consolidation proceeding under the provisions of The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (hereinafter referred to as 'the said Act').

3. A revision application was filed under the provisions of the said Act by the contesting respondent Nos. 1 and 2 before the Deputy Director Consolidation, Agra as they were aggrieved by the order of the Consolidation Officer and the order of the Settlement Officer, Consolidation and the Deputy Director reversed the findings of both the Consolidation Officer and those of Settlement Officer, Consolidation.

4. One of the grievances which has been raised by the appellants herein is that the order of Consolidation Officer dated 23.12.1981 and that of the Settlement Officer, Consolidation dated 29.11.1982, have been upset by the Deputy Director, Consolidation while entertaining a revision filed by the contesting respondents on 10.8.1993, which according to the appellant, is barred by limitation. So the complaint is that the order which has been passed by the Deputy Director Consolidation is bad in law and was passed ignoring the bar of limitation. That is the main challenge before us.

5. The admitted facts of the case are that in the year 1981 and 1982 both Haribabu and Antram, the contesting respondent Nos.1 and 2, were minors. At that time the orders dated 23.12.1981 and 29.11.1982 were passed. They filed a revision application along with an application for condonation of delay in the year 1993. In the revision application, the Deputy Director Consolidation, while relying on a number of judgments, held that the revision cannot be treated as barred by time. It appears from a Consolidation and Ors. – Civil Misc. Writ No.3066 of 1972 (R.D 1977-40 (HC), that Section 6 of the Limitation Act read with Section 341 of the said Act would be applicable in a case like this.

6. Section 6 of the Limitation Act provides where a person, entitled to institute a suit or make an application for the execution of a decree, at the time from which the prescribed period is to be reckoned, is a minor or insane, or an idiot (here we are not concerned with the last two situations), he may institute the suit or make an application after the disability has ceased and the same pe-

riod which is allowed to others will be available to such a person after his disability ceases.

7. Section 341 of the said Act runs as under:- "341. Application of certain Acts to the proceedings of this Act – Unless otherwise expressly provided by or under this Act, the provisions of the Indian Court Fees Act, 1870, the Code of Civil Procedure, 1908 and the [Limitation Act, 1963] [including section 5 thereof] shall apply to the proceedings under this Act."

8. On a conjoint reading of the aforesaid two provisions, we intend to hold that Section 6 of the Limitation Act is expressly applicable to the proceedings under the said Act and Section 6 of the Limitation Act referred to above engrafts an enabling provision to a minor to institute a proceeding by way of filing a suit or by making an application after he ceases to be a minor within the time prescribed to any other person who is not a minor.

9. The decision of the Revisional Authority in entertaining the revision at the instance of the contesting respondent Nos.1 and 2 therefore does not suffer from any jurisdictional error.

10. The other issues which have been found in favour of the contesting respondent Nos.1 and 2 are basically questions of fact.

11. The appellants herein have not been able to prove that they are in actual physical possession. Inasmuch as it has been found that in the year 1377F, in 1379F in 804/3 no possession is shown, in 1382F possession has been shown to be of one year, in 1383F in one crop nothing has been sown. In 1384F no one has been shown to be in possession, Khasra for 1386F has not been filed and the Khasras from 1375F to 1385F have been filed, but there is no proof of continuous possession.

12. In the background of this factual position, the findings of the lower authorities that the name of the appellants should be recorded as Bhumidar is not factually correct. Thus a finding which is based on the analysis of the factual aspect by the revisional authority is normally not upset by a superior Court unless it is demonstrably shown to be perverse. In the case in hand, no such case is made out.

13. The Deputy Director Consolidation has held that the appellants are not the actual cultivators and actual cultivator cannot be deprived of his land on technical ground especially when revisionists belong to a weak section of the community as they belong to Scheduled Caste (Jatav). We also do not find any error in the aforesaid findings arrived at by the revisional authority.

14. It is a well settled legal position that unless finding of the revisional authority suffers from error of jurisdiction, the Superior Court should not interfere.

15. The order of the High Court, therefore, has correctly approved the order passed by the revisional authority. We see no reason to take a different view.

16. The appeal is dismissed. There shall be no order as to costs.

.....J. (Dr. ARIJIT PASAYAT)