

Smt. Kasturi (Dead) By L.Rs vs Gaon Sabha on 27 July, 1989

Equivalent citations: 1989 SCR (3) 591, 1989 SCC (4) 55, AIR ONLINE 1989 SC 121, 1989 (4) SCC 55, (1989) 39 DLT 58, (1989) 3 JT 228 (SC), (1990) 1 LANDLR 33, (1990) 2 LANDLR 33, 1990 UJ(SC) 1 11

Author: Misra Rangnath

Bench: Misra Rangnath, Kuldip Singh

PETITIONER:

SMT. KASTURI (DEAD) BY L.RS.

Vs.

RESPONDENT:

GAON SABHA

DATE OF JUDGMENT 27/07/1989

BENCH:

MISRA RANGNATH

BENCH:

MISRA RANGNATH

KULDIP SINGH (J)

CITATION:

1989 SCR (3) 591

1989 SCC (4) 55

JT 1989 (3) 228

1989 SCALE (2) 77

ACT:

Delhi Land Reforms Act, 1954.' Section 3(13), 11, 154.
185 'Land'--When vest in gaon sabha -civil suit-Dicleartion
of bhumidhari right--Whether maintainable.

Statutory Interpretation.' External aid--Word defined
in another statute containing different meaning--Not to be
relied upon.

Words & Phrases: 'Land'--'Garden'--'Grove'--Meaning of.

HEADNOTE:

The appellant-plaintiff sued for declaration that inclusion of the disputed property in the land records of the respondent-Gaon Sabha on the basis that it had vested under the provisions of the Delhi Land and Reforms Act, 1954 was wrong, void and without jurisdiction, and for a further declaration that she was entitled to bhumidhari rights in the property under section 11 of the Act. In paragraph 4(d)

of the plaint, it was pleaded that the suit land was not 'land' and was not banjar (waste) and did not come within section 154(1)(i) to (vii) of the Act and, therefore, there was no vesting in law. The proprietor, according to the plaintiff, grew fuel wood and partly used the property as ghatwars and used the stones for building purposes.

The suit was decreed in the trial court, and the said decree was affirmed in appeal, but at the instance of the respondent-defendant No. --Gaon Sabha, the High Court in second appeal reversed the decrees of the courts below and dismissed the suit.

The High Court found that the property came within the definition of 'land' and, therefore, was subjected to the legal incidence of the statutory provisions. In regard to the relief of bhumidhari rights, it held that the plaintiffs' suit was not maintainable.

Dismissing the appeal this Court,

HELD: The definition of 'land' in section 3(13) of the Delhi Land Reforms Act, 1954 is wide. A land on which fuel wood is grown would

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constitute groveland. In view of the inclusive definition of 'land', the finding of the High Court that the dispute property constituted land cannot be said to be wrong. [594C-D]

Nemi Chand v. Financial Commissioner, Punjab & Anr., AIR 1964 (51) Punjab 373; Rajinder Prashad & Anr. v. The Punjab State & Ors., AIR 1966 (53) Punjab 185; Munshi Ram & Ors. v. Financial Commissioner, Haryana & Ors., [1979] 1 SCC 471; Haiti v. Sunder Singh, [1971] 2 SCR 163 referred to.

It is impermissible to rely-on definitions containing meanings different from the definition under the Delhi Land Reforms Act, 1954 for a proper resolution of the dispute. [595A]

The High Court therefore came to the correct conclusion when it held that the disputed property constituted 'land' under the Act, and became liable to vest in the Gaon Sabha under the Act. [595B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 351 of 1974.

From the Judgment and Order dated 23.2.1973 of the Delhi High Court in R.S.A. No. 69 of 1968.

Rajinder Sachar, Sr. Ad v. and K.C. Dua for the Appellants. N.S. Das Bahal and D.N. Puri for the Respondents. The Judgment of the Court was delivered by RANGANATH MISRA, J. This appeal is by special leave and the sole legal representative of the original plaintiff is in appeal.

The plaintiff sued for declaration that inclusion of the disputed property in the land records of the respondent Gaon Sabha on the basis that it had vested under the provisions of the Delhi Land Reforms Act, 1954, (hereinafter referred to as 'the Act') was wrong, void and without jurisdiction and for a further declaration that she was entitled to bhumidhari rights in the property under section 11 of the Act. Her suit was decreed in the trial court and the said decree was affirmed in appeal but at the instance of defendant no. 1, Gaon Sabha, the High Court in second appeal reversed the decrees of the courts below and dismissed the suit.

The suit was instituted on 16.8.1966. The decision of this Court in the case of Hatti v. Sunder Singh, [1971] 2 SCR 163 settled the legal position that a claim under section 11 of the Act for declaration of bhumidhari right was not maintainable in the Civil Court in view of section 185 of the Act read with Schedule I and exclusive jurisdiction for adjudication of such claims vested in the appropriate Revenue Court. This position of law is not disputed before us. In regard to the relief of bhumidhari rights the High Court had, therefore, rightly held that the plaintiff's suit was not maintainable.

The only other submission advanced on behalf of the plaintiff for our consideration is that the disputed property did not constitute 'land' as defined in section 3(13) of the Act and, therefore, the right, title and interest of the appellant as proprietor of the property was in no way affected by the provisions of the Act and the inclusion of the property in L.R. 2 was void, and liable to vacation. In paragraph 4(d) of the plaint, plaintiff pleaded that the suit land was not 'land' and was not banjar (waste) and did not come within section 154(1)(i) to (vii) of the Act and, therefore, there was no vesting in law. The proprietor, according to the plaintiff, grew fuel wood and partly used the property as ghatwars and used the stones for building purposes.

The High Court has found that the property came within the definition of 'land' and, therefore, was subjected to the legal incidence of the statutory provisions. Section 3(13) defines land to mean:

"land held or occupied for purposes connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and includes--

(a) buildings appurtenant thereto,

(b) village, abadis,

(c) grovelands,

(d) lands for village pasture or land covered by water and used for growing singharas and other produce or land in the bed of a river and used for casual or occasional cultivation"

The definition of land in the Act is wide and in paragraph 4(d) 'the admitted position is fuel wood was being grown on the property. 'Horticulture', 'garden' and 'groveland' in the absence of statutory definitions, would have the common parlance meaning. 'Horticulture', as the Shorter Oxford English Dictionary indicates means:

"the cultivation of a garden."

'Garden', according to the Dictionary, means--

"an area of land, usually planted with grass, trees, flower beds, etc.; an area of land used for the cultivation of ornamental plants, herbs, fruit, vegetables, trees, etc. A grove, as the Dictionary puts it means; "A small wood.; small woodland area or plantation". A land on which fuel wood is grown would constitute groveland. In view of the inclusive definition of 'land', the finding of the High Court that the disputed property constituted land cannot be said to be wrong. Reliance was placed on the decision of the Punjab High Court in Nemi Chand v. Financial Commissioner, Punjab & Anr., AIR 1964 (51) Punjab 373 where the meaning of land in Punjab Security of Land Tenures Act was under examination and the Court was called upon to decide whether banjar Jadid and banjar quadim came within the definition. For that purpose the meaning of land occurring in the Tenures Act and the Punjab Tenancy Act of 1887 was examined. The Court also referred to the definition of land in Punjab Alienation of Land Act, 1900. In the presence of a definition in the Act under consideration, we find no justification to refer to definitions in different statutes for finding out whether the disputed property was land.

Appellant's counsel also placed reliance on the decision of a Full Bench of the same High Court in the case of Rajinder Prasad & Anr. v. The Punjab State & Ors., AIR 1966 (53) Punjab 185. Here again the question for consideration was whether gair mumkin land was land within the Punjab Security of Land Tenures Act. For the reason indicated above, we do not think that the appellant is entitled to any support from the Full Bench Judgment. Lastly, reliance was placed on the decision of this Court in Munshi Ram & Ors. v.

Financial Commissioner, Haryana & Ors., [1979] 1 SCC 471. The Court was considering the true meaning of 'permissible area' under the Punjab Security of Land Tenures Act and for that purpose the meaning of land was being examined; whether banjar Jadid should be excluded with reference to the meaning of land under the East Punjab Displaced Persons (Land Settlement) Act and the Punjab Tenancy Act was being debated before the Court. We do not think in view of the statutory definition any digression is necessary. It is impermissible to rely on definitions containing meanings different from the definition under the Act for a proper resolution of the dispute. The High Court, in our opinion, came to the correct conclusion when it held that the disputed property constituted land under the Act and became liable to vest in the Gaon Sabha under the Act. The judgment of the High Court, therefore, is upheld and the appeal is dismissed. In the peculiar facts of this case, the parties are directed to bear their respective costs in this Court.

N .V.K.
missed.

Appeal dis-

