Indra Vikram Singh & Ors vs State Of M.P. & Anr on 20 January, 2011

Equivalent citations: 2011 AIR SCW 2745, (2011) 101 ALLINDCAS 191 (SC), AIR 2011 SC (SUPP) 677, AIR 2011 SC (CIVIL) 745, (2011) 3 SCALE 528, 2011 (11) SCC 531

Bench: A.K. Patnaik, R.V. Raveendran

Not Reportab

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 7027-7028 OF 2004

INDRA INDRA VIKRAM SINGH & ORS. .....APPELLANTS

Versus

STATE OF M.P. & ANR. .....RESPONDENTS

O R D E R

The appellants are the legal heirs of one Padmini Kuarba who held the Lambardari lease in regard to certain villages in Panna tehsil. The lease was granted on 7.12.1945 for 30 years on an annual rent of Rs.1242.25 payable to the state government. The said Lambardar continued in possession in pursuance of the said lease from 1.1.1943 to 31.12.1953. The leasehold rights of Padmini Kuarba were taken over by the state government, vide notification dated 22.12.1953 with effect from 1.1.1954 issued under the Vindhya Pradesh Abolition of Jagirs and Land Reforms Act, 1952 (for short `1952 Act'). The resumption was challenged by the Lambardar and ultimately this Court set aside the resumption by judgment dated 21.2.1961, holding that her rights were not jagir rights. In pursuance of the said decision, the leased villages were restored to the Lambardar on 30.4.1961. The Lambardar continued in possession from 30.4.1961 till 30.6.1966 when the Lambardari leases were abolished by notification dated 28.6.1966 issued under Section 3 of the Madhya Pradesh Swatwadharik Adhikar Sampati (Vindhya Pradesh) Adhiniyam, 1965 (for short `1965 Act'). As a consequence, possession of the leased lands was taken over from her on 1.7.1966.

2. The Collector, District Panna, by order dated 15.5.1968 determined the gross annual income to be Rs.18086.79, the deductions to be made therefrom to be Rs.4028.74 and the net income per annum as Rs.14058.05. By applying the multiplier of 13/6, he arrived at the compensation as Rs.30459.10. He also determined the income from the lands for the period of unauthorized occupation by the Government (1.1.1954 to 30.4.1961) as Rs.11,557/65. After, deducting the certain amounts due to the Government he arrived at the amount payable to the Lambardar as Rs.22,939.30 made up as follows:

(i) Compensation to the Lambardar under Section 4 of Act 41 of 1965 read with Section 10 and 14 of Act XI of 1952 [compensation of Rs.11,381.65 Rs.30459.10 minus Taccari dues (Rs.2928.20) and lease rentals due (Rs.16,149.28)]

(ii) Income received from the leasehold lands during the period from 1.1.1954 to 30.4.1961 when possession has been taken over under Act XI of 1952 (which was found to be illegal by this Court) Rs.11,557.65 That order was affirmed by the Board of Revenue by order dated 20.12.1968. The Lambardar challenged the order of Board of Revenue and the High Court on 9.11.1970 quashed the order of the District Collector and the Board of Revenue and remanded the matter for fresh assessment, with an observation that the calculation of compensation under the 1952 Act, should be by excluding those provisions which would not apply to the abolition of rights under the 1965 Act. The order of the High Court was challenged by the State and this Court by order dated 16.7.1986 dismissed the appeal filed by the state government and directed the second respondent (District Collector) to determine the compensation in the light of the observations of the High Court in its order dated 9.11.1970.

3. In pursuance of it, the second respondent passed a fresh order dated 30.5.1988 determining compensation. The Collector, by reiterating the earlier determination, arrived at the average annual income to be Rs.18,086.79 and deductions to be made as Rs.4028.74. Thus he arrived at the net income as Rs.14,058.05 per annum. He determined the compensation payable as Rs.140,580/50, by applying a multiplier of 10. The Collector directed that Rs.19,077.45 due from the Lambardar to the Government (that is Rs.2928.20 towards Taccavi with interest upto 15.5.1968 and Rs.16,149.25 towards lease amount for 13 years at the rate of Rs.1242.25 per year) should be deducted and the balance be paid to the legal heirs of the Lambardar. He also reiterated that a sum of Rs.11,557.65 being the income of the Lambardari for the period 1.1.1954 to 30.4.1961 be released to legal heirs of the Lambardar. He awarded interest at the rate of 3= per annum on the compensation amount. He did not however grant any interest on the income determined for the period 1.1.1954 to 30.4.1961 on the ground that the said amounts had been deposited on 6.4.1968 by the Tehsildar, Panna and District Forest Officer, Panna. The said determination was challenged by the legal heirs of the deceased Lambardar. The High Court by the impugned order dated 7.5.2002 upheld the determination of compensation and the determination of income for the period 1.1.1954 to 30.4.1961. The High Court however modified the interest payable. While the Collector had granted interest at 3=% per annum in terms of the provisions of the Act, the High Court held that the said rate of interest would apply only upto 9.3.1987 and the interest payable from 10.3.1987 will be at the rate of 6% per annum, as this Court had directed that the compensation should be determined within six months. The said order is challenged by the legal heirs of the Lambardar in these appeals

by special leave.

4. The appellants contend that the calculation of the compensation for abolition of rights under the 1965 Act was erroneous. They contended that the average annual income of the Lambardar for the purpose of calculating the compensation had to be computed by excluding the period 1.1.1954 to 30.4.1961 (the period when the properties were in the possession of the State) and by dividing the income earned while the Lambardari was under the management of the Lambardar by the number of years during which she derived such income. The appellants also contended that the calculation of income from the Lambardari for the period 1.1.1954 to 30.4.1961 are erroneous. The appellants contended that award of interest at 3.5% per annum up to 9.3.1987 and 6% per annum from 10.3.1987 are very low and interest should be awarded at 15% per annum. They lastly contended that solatium should have been awarded.

5. The High Court found that there was no error in the calculation of the compensation. It found that the net annual income for purposes of determining the compensation and the income from 1.1.1954 to 30.6.1961 calculated by the Collector in the earlier order dated 15.5.1968 were not disturbed by the High Court while remanding the matter by order dated 9.11.1970 and what was found to be incorrect was application of the multiplier of 13/6. On remand, the Collector had correctly applied the multiplier as 10 (instead of 13/6 applied in the earlier order) for arriving at the compensation, but did not disturb the calculation of net annual income or the income for the period 1.1.1954 to 30.4.1961. Therefore as rightly held by the High Court, there is no reason to interfere with the compensation amount and the income for the dispossession period determined by the Collector. The gross income, the net income and the total compensation has been rightly calculated in terms of clauses 3,4 and 6 of the Schedule to the 1952 Act. We also find that the income for the period of wrongful possession (1.1.1954 to 30.4.1961) was also calculated as per law in the first order dated 15.5.1968 and that was reiterated in the order dated 30.5.1988 on remand. The High Court has found that there was no error in the calculation of the income for 1.1.1954 to 30.4.1961 and we find no reason to interfere with the said finding.

6. In so far as interest is concerned, we find that the rate of interest awarded is in accordance with Section 10(2) of the 1952 Act. When the statute indicates the rate of interest it cannot be changed. Further, the High Court has increased the interest to 6% per annum, from 10.3.1987 (that is on the expiry of six months from the date on which this Court directed the decision should be rendered). The question of solatium does not arise in the absence of any provision therefor in the statute. [See: Union of India vs. Hari Krishna Khosla - (1993) Supp. 2 SCC 149 and Union of India vs. Parmal Singh - (2009) 1 SCC 618].

7. Therefore, we dismiss the appeals as having no merit.

.....J.
(R.V. RAVEENDRAN)

New Delhi; .....J.
January 20, 2011. (A.K. PATNAIK)