

Ujagar Singh (Dead) Thr. Lrs. & Anr.

v.

Punjab State & Ors.

(Civil Appeal No.1365 of 2011)

09 July 2024

[Vikram Nath* and Prashant Kumar Mishra, JJ.]

Issue for Consideration

Whether the High Court fell in error in dismissing the suit primarily on the ground that the Civil Court's jurisdiction was barred by s.21 of the Punjab Land Reforms Act, 1972 when the issue of jurisdiction was not pressed by the respondents during the trial court proceedings.

Headnotes[†]

Punjab Land Reforms Act, 1972 – s.21 – Jurisdiction of Civil Courts, if barred – Appellants filed suit for declaration and perpetual injunction, asserting that the land in question was exempt under the Act – They sought declaration that the land belonged to the religious and charitable shrine Dam Dama Sahib of Una and an injunction to prevent the respondents from transferring or declaring it surplus – Trial Court dismissed the suit – First Appellate Court partly allowed appeal – High Court set aside the judgment of First Appellate court, holding that the Civil Court's jurisdiction was barred u/s.21 of the Act – Correctness of:

Held: The issue of jurisdiction was not pressed by the respondents during the Trial Court proceedings – The Trial Court specifically recorded that the issue of jurisdiction was not pressed and decided it in favour of the plaintiffs – The respondents did not challenge this finding before the first appellate Court, and, hence precluded from raising it in the second appeal before the High Court – s.21 of the Land Reforms Act bars the jurisdiction of Civil Courts only in specific circumstances – (a) suits for specific performance of a contract for transfer of land, and – (b) questioning the validity of any proceeding or order taken or made under the Act – The present suit does not fall under either of these two categories –

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Digital Supreme Court Reports

The appellants' suit was essentially for a declaration that the land belonged to the religious and charitable shrine Dam Dama Sahib, and there was no challenge to the validity of any order under the Act – The Civil Court alone has the jurisdiction to decide and declare whether the land belonged to the religious shrine or to Tikka Devinder Singh in his personal capacity – The suit filed by the appellants was not a challenge to the validity of the surplus order but a suit for declaration regarding the ownership of the land – Matter remitted back to High Court for fresh consideration on merits. [Paras 5, 7, 8]

List of Acts

Punjab Land Reforms Act, 1972.

List of Keywords

Suit for declaration and perpetual injunction; Surplus land; Bar of jurisdiction of Civil Courts; Section 21 of the Land Reforms Act; Land dedicated to religious and charitable institution; Religious shrine; Dam Dama Baba Sahib Singh of Una; Transfer of land.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1365 of 2011

From the Judgment and Order dated 09.03.2010 of the High Court of Punjab & Haryana at Chandigarh in RSA No. 250 of 1983

Appearances for Parties

P.S. Patwalia, Sr. Adv., Ms. Diya Kapur, Mrs. Pragya Baghel, Raghav Kumar, Aditya Ladha, Ms. Gahena Gambani, Vishal Banshal, Advs. for the Appellants.

Ms. Bhakti Pasrija, D.A.G., Karan Sharma, Moksh Pasrija, Ms. Princy Sharma, Rishabh Sharma, Ms. Urvi Kashiwal, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Vikram Nath, J.

1. The present appeal assails the correctness of the judgment and order dated 09.03.2010 passed by the High Court of Punjab & Haryana at Chandigarh in R.S.A No. 250 of 1983, whereby the High

Ujagar Singh (Dead) Thr. Lrs. & Anr. v. Punjab State & Ors.

Court set aside the judgment and decree dated 25.9.1982 of the Additional District Judge, Hoshiarpur. The High Court held that the Civil Court's jurisdiction was barred under Section 21 of the Punjab Land Reforms Act, 1972¹.

2. The background of this case is as follows:

- 2.1 The appellants, followers of the religious shrine of Dam Dama Baba Sahib Singh of Una, filed a suit for declaration and perpetual injunction against the respondents and one Smt. Sangeet Kaur, daughter of Baba Madhusudan Singh Sahib Una. The appellants contended that the land detailed in the headnote of the plaint was dedicated to the religious and charitable institution Dam Dama Sahib of Una, under the management and supervision of Baba Madhusudan Singh.
- 2.2 The appellants pleaded that the shrine was worshipped by them and countless Sikhs. They asserted that Shri Kala Dhari, the founder of Una and a descendant of Baba Nanak, established the shrine, which was later managed by his successors. Shri Sahib Singh, the successor of Shri Kala Dhari, established another shrine at Quilla Jawahar Singh in Gujranwala (now in Pakistan), where followers gifted land for religious and charitable purposes. The income from these lands was used for maintaining the shrine and other charitable activities.
- 2.3 Upon the partition of India, 1440 kanals and 8 marlas of land were allotted to the Bedi families of Una in lieu of their land in Pakistan, including 735 kanals and 7 marlas allotted to Tikka Devinder Singh, a descendant of Baba Sahib Singh. The appellants argued that this land, though recorded in the name of Tikka Devinder Singh, was actually meant for the shrine and managed by Baba Madhusudan Singh.
- 2.4 The appellants claimed that despite not having the right to transfer the land, Baba Madhusudan Singh transferred 156 kanals and 8 marlas to the Agriculture Department of Punjab and 330 kanals and 14 marlas to his daughter, Sangeet Kaur. These transfers, the appellants contended, were illegal and not binding on the worshippers of the shrine.

1 In short, the "Land Reforms Act"

Digital Supreme Court Reports

- 2.5 The Government of Punjab initiated proceedings to declare part of this land as surplus. The Collector, Agrarian, Hoshiarpur, declared 20.0943 standard acres of the land as surplus on 28.06.1976. The appellants filed a suit for declaration and perpetual injunction, asserting that the land was of religious and charitable nature, and thus exempt under the Land Reforms Act. They sought a declaration that the land belonged to Dam Dama Sahib of Una and an injunction to prevent the respondents from transferring or declaring it surplus.
- 2.6 The Trial Court framed several issues for determination, including whether the Civil Court had jurisdiction to try the suit under Section 21 of the Land Reforms Act. The Trial Court noted that the issue of jurisdiction was not pressed by the defendants during the proceedings and, regardless, decided it in favour of the plaintiffs. After considering the evidence, the Trial Court dismissed the suit on 15.12.1980, holding that the appellants failed to prove that the land was dedicated to a religious and charitable institution.
- 2.7 Aggrieved by the dismissal, the appellants filed an appeal before the Additional District Judge, Hoshiarpur. The First Appellate Court, by judgment and decree dated 25.09.1982, partly allowed the appeal. The Appellate Court concluded that 133/290 share of the land in the suit was charitable and belonged to Dam Dama Baba Sahib Singh of Una. The court held that this share could not be declared surplus by the Collector and restrained the respondents from making further transfers of this share of the land.
3. The respondents, dissatisfied with the First Appellate Court's judgment, filed a Regular Second Appeal before the High Court of Punjab & Haryana. The High Court, vide its order dated 09.03.2010, set aside the judgment and decree of the Additional District Judge, holding that the Civil Court's jurisdiction was barred under Section 21 of the Land Reforms Act. The High Court emphasized that the appellants had not challenged the order declaring the land surplus before the appropriate authorities under the Act, and thus, the suit was not maintainable. The same has been challenged giving rise to the present appeal.

Ujagar Singh (Dead) Thr. Lrs. & Anr. v. Punjab State & Ors.

4. Having heard the arguments of both sides, this Court is of the opinion that the High Court fell in error in dismissing the suit primarily on the ground that the Civil Court's jurisdiction was barred by Section 21 of the Land Reforms Act.
5. It is pertinent to note that the issue of jurisdiction was not pressed by the respondents during the Trial Court proceedings. The Trial Court specifically recorded that the issue of jurisdiction was not pressed and decided it in favour of the plaintiffs. The respondents did not challenge this finding in the First Appellate Court, and hence, they were precluded from raising it in the second appeal before the High Court.
6. Section 21 of the Land Reforms Act reads as follows:

“21. Bar of jurisdiction.

(1) Save as provided by or under this Act, the validity of any proceedings or order taken or made under this Act shall not be called in question in any court or before any other authority.

(2) No civil court shall have jurisdiction to entertain any suit, or proceed with any suit instituted after the appointed day, for specific performance of a contract for transfer of land which affects the right of the State Government to the surplus area under this Act.”

7. Section 21 of the Land Reforms Act bars the jurisdiction of Civil Courts only in specific circumstances: (a) suits for specific performance of a contract for transfer of land, and (b) questioning the validity of any proceeding or order taken or made under the Act. The present suit does not fall under either of these two categories. The appellants' suit was essentially for a declaration that the land belonged to the religious and charitable shrine Dam Dama Sahib, and there was no challenge to the validity of any order under the Act. The Civil Court alone has the jurisdiction to decide and declare whether the land belonged to the religious shrine or to Tikka Devinder Singh in his personal capacity. The suit filed by the appellants was not a challenge to the validity of the surplus order but a suit for declaration regarding the ownership of the land.

Digital Supreme Court Reports

8. In view of the above, the High Court's order is set aside. The matter is remitted back to the High Court for fresh consideration on merits in accordance with law.
9. The appeal is accordingly allowed as above.
10. There shall, however, be no order as to costs.

Result of the case: Appeal allowed.

[†]Headnotes prepared by: Bibhuti Bhushan Bose
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