Madan Gopal vs Ramesh Chandra And Ors. on 12 July, 1951

Equivalent citations: AIR1952ALL81, AIR 1952 ALLAHABAD 81

JUDGMENT

C.B. Agarwala, J

1. This is a deft's. appeal arising out of a suit for pre-emption. The property in dispute is situated in Kashipur, district Nainital. The Agra Pre-emption Act does not apply to this area. The claim for pre-emption was based on custom.

2. On behalf of the deft-appellant it has been urged that by virtue of Section 336, Uttar Pradesh Zamindari Abolition & Land Reforms Act (No. 1 of 1951) this appeal must be allowed and the suit dismissed. Section 336 of the Act reads as follows:

> "(1) Notwithstanding anything contained in any law, custom, usage or agreement, the right of preemption shall not exist in respect of any sale of any immoveable property in the area to which the Act applies whether made voluntarily or under order of Court.
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> (2) All suits for pre-emption pending in respect of any such property in any Court whether of the first instance or appeal or revision shall stand dismissed, but award of the costs incurred in any such suit shall be in the discretion of the Court." Section 1 of the Act lays down that the Act shall come into force at once except in certain areas with which we are not concerned. The Act was published in the U. P. Gazette on 25-1-1951. It, therefore, came into operation from that date. It is conceded that the area in suit is covered by the Act & the Act is in force in that area.

3. If regard be had to the provisions of Section 336 alone, there can be no doubt that since the property in dispute is "in the area to which the Act applies", the right of pre-emption sought for in the suit could not be deemed to exist therein &, by virtue of Clause (2) of the section, the present suit, which was, on the date on which the Act came into force, pending in this Court in second appeal, must be dismissed. It is, however, contended that the wide language of Section 336 must be controlled by the limited language of Section 339. This section runs as follows:

> "With effect from the date of publication of the notification under Section 4 in respect of any area:
>
> (a) the enactments mentioned in List 1 of Sch. III shall be & are hereby repealed in their application to such area....."

4. The Agra Pre-emption Act is one of the enactments mentioned in List 1 of Sch. III. It follows that the Agra Pre-emption Act will stand repealed by virtue of Section 339, only with effect from the date

of publication of the notification under Section 4 & only in respect of the area in respect of which the notification is made. It is common ground that no such notification has yet been made. It is, therefore, contended that since the Agra Pre-emption Act is still in force, it would be incongruous if the wide language of Section 336 were given its literal meaning. It is pointed out that there would be no sense in continuing the enforceability of the Agra Preemption Act, so long as the notification under Section 4 is not made, if the right of pre-emption, as mentioned in Section 336, were to be taken away even before that time from the commencement of the Act. No doubt, there is some incongruity in this respect & we were at first inclined to accept this contention but two factors have influenced us in coming to a contrary conclusion.

5. The first factor is that it is a well settled principle of interpretation of statutes that the language of the enactment must be given its natural meaning. As stated by Maxwell:

> "If there is nothing to modify, nothing to alter, nothing to qualify the language which the statute contains, it must be construed in the ordinary & natural meaning of the words & sentences .....
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> When the language is not only plain but admits of but one meaning, the task of interpretation can hardly be said to arise. It is not allowable, says Vattel, to interpret what has no need of interpretation. 'Absoluta sententia expositore non indiget.' Such language best declares, without more, the intention of the law-giver, & is decisive of it. The rule of construction is 'to intend the Legislature to have meant what they have actually expressed. It matters not, in such a case, what the consequences may be. Where, by the use of clear & unequivocal language capable of only one meaning, anything is enacted by the Legislature, it must be enforced, even though it be absurd or mischievous." (Maxwell on interpretation of Statutes. 9th Edition, Pages 3 & 4.)

6. As already observed, if the natural meaning of the language employed in Section 336 were to be given, the right of pre-emption has ceased to exist in the areas to which the Act applies, including the area in suit, from the date on which the Act came into force, & all suits pending on that date must be dismissed.

7. The second factor is that Section 336 does not merely deal with the right of pre-emption, as contained in the Agra Pre-emption Act. It deals with the right of pre-emption based upon custom, usage or agreement also. The present case is an in-stance in point. As already stated, this case is not governed by the Agra Pre-emption Act at all. So far as this case is concerned, there would be no incongruity between Sections 336 & 339. It may be that the Legislature intended that the right of pre-emption, & all litigations regarding claims for pre-emption may be put an end to as soon as the Act came into force, although, for some reasons, the Agra Pre-emption Act was mentioned in Sch. III in which other enactments were also mentioned & which were to be repealed with effect from the date of publication of the notification under Section 4. However, that may be, we are bound to give full effect to the express language of Section 336, specially when the whole area of the legislation dealt with in Section 336 is not covered by the provisions of Section 339. It is unnecessary to deal with the other points that arise in the appeal.

8. The appeal is accordingly allowed & the suit dismissed. But since on a reading of the appeal on the merits we were of opinion that there was no force in this appeal & that the suit of the plffs. was rightly decreed, the plff.-respondents must have their costs in all the Courts.

9. We may, however, add that since the question whether the Uttar Pradesh Zamindari Abolition & Land Reforms Act is 'ultra vires' the U. P. Legislature is pending before the Supreme Court, the plff.-respondents will be entitled to apply for a review of this judgment & have the appeal re opened in case the Supreme Court holds that the Act is 'ultra vires' or otherwise invalid.