

Ram Dass vs Board Of Revenue U.P., Allahabad And ... on 22 January, 1954

Equivalent citations: AIR1954ALL515, AIR 1954 ALLAHABAD 515

Author: V. Bhargava

Bench: V. Bhargava

ORDER

V. Bhargava, J.

1. The petitioner by this petition under Article 226 of the Constitution prays for the issue of a writ of certiorari quashing the orders of the Board of Revenue dated 9-10-1953 and 16-10-1953 and for the issue of a writ of mandamus directing the Board of Revenue to decide Second Appeal No, 137 of 1948-49, which was instituted before it, on merits. A further direction or injunction was sought directing the opposite -party, Ramji Lal restraining him from taking possession over the land in dispute in pursuance of the order of the Board of Revenue referred to above.

The grounds on which these writs and direction or injunction are sought have been mentioned as only being two in number. The first ground is that Rules 4 and 5 framed under the U. P. Zemindari Abolition and Land Reforms Act of 1950 are 'ultra vires', being in contravention of the rule making power of the State government under Section 26 of that Act, and consequently the order of the Board of Revenue abating the suit out of which S. A. No. 137 of 1948-49 arose is also 'ultra vires' and liable to be quashed. The second ground is that the land in dispute was admittedly the khudkasht of the intermediary on the date of vesting and even if Rule 5 framed under the U. P. Zemindari Abolition and Land Reforms Act be applied, the Board of Revenue had no jurisdiction to abate S. A. No. 137 of 1948-49.

2. After hearing learned counsel for the petitioner I find that there is no substance in either of the two grounds taken by the petitioner. The relevant rule making power of the State government is laid down in Section 26, U. P. Zemindari Abolition and Land Reforms Act of 1950. It permits the State government to make rules, 'inter alia', so as to provide for the disposal of suits and proceedings stayed under Chapter II of the Act and to provide for matters which are to be, and may be, prescribed. Under Section 6, Clause (i) suits and proceedings of the nature to be prescribed pending in any court at the date of vesting, and all proceedings upon any decree or order passed in any such suit or proceeding previous to the date of vesting have to be stayed.

Thus under Clause (i) of Section 6 read with Section 26 the State government has power to prescribe the nature of suits and proceedings pending at the date of vesting which are to be stayed. There-after

under Section 26 the State government is empowered to make rules to provide for the disposal of such suits and proceedings as have been stayed under Clause (i) of Section 6. The delegation of this rule making power to the State government by the U. P. Legislature is valid and cannot now be challenged in this Court due to the decision of the Supreme Court in -- 'State of Bihar v. Kameshwar Singh', AIR 1952 SC 252 (A), in which the Supreme Court declared that the U. P. Zemindari Abolition and Land Reforms Act of 1950 is valid in its entirety. That declaration of law by the Supreme Court is binding on all High Courts under Article 141 of the Constitution. Consequently Clause (i) of Section 6 as well as Section 26 of the U. P. Zemindari Abolition and Land Reforms Act have to be held valid and all that can be said in connection with this petition is whether the rules which have been made by the Uttar Pradesh government are covered by the power granted to it by these provisions of the U. P. Zemindari Abolition and Land Reforms Act, 1950.

Rule 4 prescribes the nature of the suits and proceedings which are to be stayed under Clause (i) of Section 6. Obviously, therefore, the rule is within the specific power granted to the State Government to make rules in that behalf. Rule 5 lays down the procedure according to which the suit stayed under Rule 4 are to be disposed of and requires that suits of certain types stayed under Rule 4 shall be abated. Abatement of a suit is clearly a method of disposal of the suit. Clearly again, therefore, the provisions of Rule 5 are within the rule-making power of the State of Uttar Pradesh granted to it by Clause (b) of Sub-section (2) of Section 26 of the U. P. Zemindari Abolition and Land Reforms Act.

Learned counsel has not been able to show that any part of these rules deals with matters which are not covered by Clause (i) of Section 6 or Clause (b) of Sub-section (2) of Section 26 of the Zemindari Abolition and Land Reforms Act and there is clearly therefore no force in the contention that Rules 4 and 5 of the rules framed under the U. P. Zemindari Abolition and Land Reforms Act are in contravention of or beyond the scope of the power of making rules granted to the State Government under sections 6 and 26 of the U. P. Zemindari Abolition and Land Reforms Act. The first ground is, therefore, clearly untenable.

3. The second ground taken in the petition on the face of it has no force. If Rules 4 and 5 are held to be valid they clearly govern suits under Section 180, U. P. Tenancy Act irrespective of whether the land in the suit was the khudkasht of the intermediary or was of any other kind. The suit which has been abated by the Board of Revenue was under Section 180, U. P. Tenancy Act and consequently the Board of Revenue had jurisdiction to abate the suit, as well as Section A. No. 137 of 1948-49 pending before it having arisen out of that suit.

4. The petition has, therefore, no force and is rejected.