

## **Gangadhar (Dead) By L.Rs. vs Surplus Land Determination Tribunal ... on 1 February, 1991**

**Equivalent citations:** AIR1991SC1181, JT1991(5)SC124, 1991(1)SCALE106, (1991)1SCC631, 1991(1)UJ476(SC), AIR 1991 SUPREME COURT 1181, 1991 (1) SCC 631, 1991 AIR SCW 326, (1991) 5 JT 124 (SC), 1991 (1) UJ (SC) 476, 1991 (5) JT 124, (1991) 1 CURCC 426

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**Bench:** L.M. Sharma, M.M. Punchhi

ORDER

Lalit Mohan Sharma, J.

1. These appeals by special leave have arisen out of a proceeding under the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961. The Surplus Land Determination Tribunal determined the holding of the appellant, Gangadhar since dead, as of 142 acre and 3 gunthas and accordingly declared an area of 88 acres and 36 gunthas as surplus. His widowed sister Anjanabai, who was living with him, claims a share in the land in question by inheritance from her father, Ramchandra. Gangadhar has been supporting her. His further case is that an area of 47 acres and 17 gunthas bearing Court No. 119 Gat had been given to his divorced wife; Sarjabai, in 1964, and the same cannot be included in his holding. On appeal the cases of both the brother and sister were rejected by the Maharashtra Revenue Tribunal and their applications under Article 227 of the Constitution were also dismissed by the High Court by the impugned judgments.

2. While dealing with the case of Anjanabai, the High Court has observed that no evidence had been adduced to prove that Ramchandra, the father, died subsequent to the coming in force of the Hindu succession Act, 1956 and she cannot, therefore, claim any share. The Court was also under an impression that the case that the land in question earlier belonged to Ramchandra had also been rejected by the Maharashtra Revenue Tribunal. The learned Counsel for the appellants has contended that the High Court was in grave error in assuming that there was no evidence in support of the aforementioned two material issues in the case. Reference has been made to a death certificate indicating that Ramchandra actually died in 1967. The learned Counsel placed before us paragraph seven of Anjanabai's application under Article 227 (S.C.A. No 5206 of 1976) claiming that the said certificate had been filed before the authority concerned but "was erroneously not considered. The assertion has been reiterated before us and has not been denied-on behalf of the

respondents. We are, therefore, of the view that relevant evidence as to the time when Ramachandra died was on the records of the case and the High Court without examining the statement in paragraph seven, referred to above, erroneously assumed that there was no such evidence.

3. Again the question as to whether the land earlier belonged to Ramchandra and on his death devolved on his legal representatives has not been examined with reference to the materials on the record. The Maharashtra Revenue Tribunal did not record any finding on this aspect, and the High Court also brushed it aside without giving any proper attention. The case, therefore, requires a reconsideration of the evidence on these points which can be done more appropriately by the Maharashtra Revenue Tribunal.

4. So far the claim of Gangadhar in respect of 47 acres and 17 gunthas of land bearing Gat No.119 is concerned this also requires a reconsideration of the materials produced both by Gangadhar and his divorced wife Sarjabai. Reliance has been placed on the original divorce- deed of 1964 and the extract from the Record of Rights prepared in the name of Sarjabai.

5. Accordingly we set aside the orders of the Maharashtra Revenue Tribunal as also the judgments of the High Court and remit the entire matter to the Maharashtra Revenue Tribunal for fresh decision-in-accordance with law. There will be no order as to costs.