

Hakim Ali And Anr vs Board Of Revenue U.P. And Ors on 19 December, 1990

Equivalent citations: 1991 AIR 972, 1990 SCR SUPL. (3) 566, AIR 1991 SUPREME COURT 972, 1991 AIR SCW 252, 1990 ALL. L. J. 966, 1991 SCD 303, (1991) 1 JT 22 (SC), 1991 (1) UJ (SC) 673, 1991 (2) ALL CJ 912, 1991 UJ(SC) 1 673, 1991 ALL CJ 2 912, 1991 (1) SCC(SUPP) 565, 1991 (1) JT 22, (1991) 1 ALL WC 392

Author: S.C. Agrawal

Bench: S.C. Agrawal, M.M. Punchhi

PETITIONER:

HAKIM ALI AND ANR.

Vs.

RESPONDENT:

BOARD OF REVENUE U.P. AND ORS.

DATE OF JUDGMENT 19/12/1990

BENCH:

AGRAWAL, S.C. (J)

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PUNCHHI, M.M.

CITATION:

1991 AIR 972 1990 SCR Supl. (3) 566

1991 SCC Supl. (1) 565 JT 1991 (1) 22

1990 SCALE (2) 1279

ACT:

U.P. Zamindari Abolition and Land Reforms Act, 1950--Section 229-B-Dispute relating to bhumidhari rights--Competency of Board of Revenue to refer dispute to arbitration.

U.P. Zamindari Abolition and Land Reforms Act, 1950 - Sections-293 and 339(c)--Scope and construction of--Difference in terminology--Effect of.

U.P. Land Revenue Act, 1901 --Chapter IX Whether applicable to the proceedings under the provisions of the U.P. Zamindari Abolition and Land Reforms Act, 1950--Legislative intention of.

HEADNOTE:

The father of appellant No. 1 instituted a suit under Section 229-B of the U.P. Zamindari Abolition and Land Reforms Act, 1950 against respondent No. 2, for a declaration that he was Bhumidhar in respect of suit-lands. During the pendency of the suit, the original plaintiff died and the appellants were brought on record as the plaintiffs. The suit was dismissed by the S.D.O.

On appeal, it was decreed by the Additional Commissioner.

Respondent No. 2 filed a second appeal before the Board of Revenue, and on the joint request of the parties, the dispute was referred to arbitration. Respondent No. 5--the arbitrator gave his award. Objections were filed by the appellants against the award, and one of them was that the reference to arbitration was bad in law inasmuch as the Board of Revenue had no jurisdiction to refer the dispute and the award given by the arbitrator was void and without jurisdiction. The objection of the appellants was however rejected.

The appellants filed a writ petition, challenging the decision of the Board of Revenue which was dismissed by the High Court holding that in view of Section 203 of the U.P. Land Revenue Act, 1901 the provisions of the Arbitration Act were applicable to cases coming up for hearing before the Board of Revenue, and the Board of Revenue had jurisdiction to refer a dispute involved in second appeal under the Zamindari Abolition Act to arbitration.

Aggrieved by the decision of the High Court the appellants appealed to this Court, contending that Section 293 of the Zamindari Abolition Act expressly limited the applicability of the provisions of Chapters IX and X of the Land Revenue Act to applications and proceedings made or taken under Chapter X of the Zamindari Abolition Act; that Section 203 of the Land Revenue Act would be applicable only to applications and proceedings made or taken under Chapter X (Sections 241 to 294) of the Zamindari Abolition Act; that the provisions of Section 203 of the Land Revenue Act would not be applicable to second appeal arising out of a suit filed under Section 229-B of the Zamindari Abolition Act which was not a proceeding taken under Chapter X of the Zamindari Abolition Act; and that the difference in the language used by the legislature in Sections 293, 339, 341 of the Zamindari Abolition Act indicates limited applicability of the provisions of the Land Revenue Act to proceedings and applications under the Zamindari Abolition Act.

Dismissing the appeal, this Court,

HELD: 1. Arbitration is a recognized mode of settlement of disputes. It enables the parties to resolve their dispute by a tribunal selected by them. The considerations which justify reference to arbitration of disputes arising in

applications and proceedings under Chapter X of the Zamindari Abolition Act are equally applicable to applications and proceedings under other provisions of the Act. [576D-E]

2. Section 293 cannot be read in isolation. It has to be read along with Section 339. In clause (c) of Section 339 it is prescribed that with effect from the date of vesting in respect of any area, the Land Revenue Act shall, in its application to such area, be deemed to be and is hereby amended to the extent mentioned in column 3 of the List II of the Schedule III of the said Act. [573B-C]

3. The High Court has rightly taken the view that the Board of Revenue had ample jurisdiction under Section 203 of the Land Revenue Act to refer to arbitration the dispute involved in the second appeal pending before it which arose out of a suit under Section 229-B of the Zamindari Abolition Act. [576F-G]

4. The distinction based on the difference in terminology used in

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Sections 293 and 339(c) of the Zamindari Abolition Act only indicates that section 293 is limited in its scope in applying the provisions of Chapters IX and X of the Land Revenue Act to applications and proceedings under Chapter X of the Zamindari Abolition Act; whereas section 339(c) is much wider in amplitude in as much as it makes all the provisions of the Land Revenue Act applicable to the area to which the provisions of the Zamindari Abolition Act are applied. [573G-574B]

5. The width and amplitude of the provision contained in Section 339(c) of the Zamindari Abolition Act cannot be curtailed by reference to Sections 293 and 341 of the Act. [574D-E]

6. There is nothing in the provisions contained in Chapter IX of the Land Revenue Act which may require restricting their application to applications and proceedings under Chapter X of the Zamindari Abolition Act. Some of the matters covered by Chapter IX of the Land Revenue Act have been dealt with in Chapter XII of the Zamindari Abolition Act but most of the matters referred to in Chapter IX of the Land Revenue Act are not dealt with in the Zamindari Abolition Act. It cannot be assumed that while enacting the Zamindari Abolition Act the legislature intended that the procedural provisions contained in Chapter IX of the Land Revenue Act would be applicable only to applications and proceedings under Chapter X of the Zamindari Abolition Act but would not be applicable to applications and proceedings under provisions other than Chapter X of the Zamindari Abolition Act. [575G-576B]

7. It could not be the intention of the legislature that in the matter of adjudication of applications and proceedings under provisions other than Chapter X of the Zamindari Abolition Act which would be substantially larger number than those under Chapter X of the Act, the provisions con-

tained in Chapter IX of the Land Revenue Act should not be available to the revenue courts. [576C-D]

Sahdeo and another v. Deputy Director of Consolidation, Varanasi at Allahabad and Others, [1980] Allahabad Journal 1110, overruled.

G.P. Singh on Principles of Statutory Interpretation 4th Edn., P. 51, referred.

JUDGMENT: