

(1958) 04 MP CK 0005

Madhya Pradesh High Court

Case No: Rev. R. No. 110 of 1957

Baghelkhand Products, Satna

APPELLANT

Vs

Ramlal Chaurasiya

RESPONDENT

Date of Decision: April 16, 1958**Acts Referred:**

- Vindhya Pradesh Land Revenue and Tenancy Act, 1953 - Section 14, 156

Citation: (1961) MPLJ 385**Hon'ble Judges:** Raghu Raj Singh, President; K.L. Pancholy, Member**Bench:** Division Bench**Advocate:** R.K. Dixit, for the Appellant;

Judgement

The above order has been received from the Member, Board of Revenue (Shri K.L. Pancholi) for concurrence u/s 15 of the V.P. Land Revenue and Tenancy Act, 1953. The non-applicant wanted to be heard. The parties were accordingly noticed and heard.

It is necessary for the disposal of the revision to briefly enumerate the fact of the case. Bhokkan kol was the muafidar of khasra Nos. 1259 and 1263 of village Pahadi tahsil Maihar. He leased out the khasra number to one Ramlal who is non-applicant in these proceedings. M/s. Baghelkhand Products, who are the applicants were assigned a mining lease of the same land. In 1955 the lands were resumed and Ramlal was evicted. It was held that Ramlal was a trespasser and land belonged to the State. Subsequent to Ramlal's eviction proceedings were started u/s 156 of the Act and the same lands were allotted to Ramlal on 11.2.57. M/s. Baghelkhand Products applied to the Tahsildar that a mining lease had been granted to them in respect of the same lands and asked that the order dated 11-2-57 be set aside. The Tahsildar rejected the application made by M/s. Baghelkhand Products. A revision was filed before the Board against the order of the Tahsildar.

My learned colleague has set aside the order of the Tahsildar allotting lands in question to Ramlal, but has declined to give the relief sought by the applicant. The order is based on the ground that the proceedings in the Tahsil's Court were not conducted in conformity with the rules framed u/s 156 of the Act.

The learned counsel for the non-applicant contended that the Board has no jurisdiction to entertain a revision against the Tahsildar's order because the Tahsildar's order was appealable u/s 45 and a revision to the Board lies u/s 14 only in case in which no appeal lies to the Board. It is further argued on behalf of the non-applicant that as M/s. Baghelkhand Products failed to challenge the order resuming the lands and for vesting them in the State passed in 1955, they cannot now challenge the order dated 11-2-57. According to him the Board is not competent to re-open the question.

The learned counsel for the applicant argued that as this is a case of revision and no concurrence is necessary. Section 15 of the Act requires concurrence in appeals and cases of reference u/s 51.

The question of jurisdiction of the Board turns round the application made by M/s. Baghelkhand Products to the Tahsildar. If it was a review application the jurisdiction of the Board can be invoked u/s 14 of the Act, because an order of the Court rejecting a review application is not appealable and therefore it follows that section 14 can be pressed into service. It is an admitted fact that M/s. Baghelkhand Products had a mining lease in respect of the lands under consideration. They were not a party to the proceedings u/s 156. They could, therefore, legitimately consider themselves aggrieved by the Tahsildar's order. The application made by them to the Tahsildar for getting the order dated 11-2-57 set aside must, therefore, be deemed to be an application u/s 50. Accordingly section 14 is attracted as no appeal lies against the order rejecting the review application. The Board is, therefore, competent to consider the revision petition.

As regards the necessity for concurrence section 15 of the Act has to be read with V.P. Board of Revenue Rules, 1955. Rule 8 of these Rules requires that no decision or order passed by the revenue Court in judicial proceedings coming for the consideration of the Board, in appeal or revision shall be altered modified or reversed without the concurrent judgment of two Members.

The Tahsildar did not follow the procedure laid down u/s 156 and the rules framed thereunder. I concur with the finding of my learned colleague. The order of the Tahsildar is, therefore, set aside.