

(1993) 10 SC CK 0084

Supreme Court of India

Case No: Civil Appeal No. 746 Of 1982

Suleman (Dead) by Lrs.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Oct. 14, 1993

Acts Referred:

- Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1976 - Section 31(3)

Citation: (1994) 3 SCC 707 Supp

Hon'ble Judges: N. P. Singh, J; M. M. Punchhi, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. The appellant Suleman, now dead and represented by his legal heirs, had to suffer proceedings under Section 10 of the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960, on issuance of more than one notice served on him, and finally with a declaration that he was holding land in excess of the prescribed limit. Initially, though he was successful in having the proceedings scuttled on the basis that his three sons, reference of which was made in the proceedings, were majors on the crucial date i.e. on 8/06/1973, (let alone the correct date for the purpose), the authorities ultimately FOUND that his sons were minors. The appellant in his part had not led any evidence to prove that all or any of his sons was a major and not forming part of his family, which alone was entitled to a unit under the Act. The dispute primarily remained confined to the issue of majority of his sons right up to the High court in writ proceedings. It is here now that the dispute is sought to be expanded on procedural angularities suggesting that the High court had refused to go into these questions and disposed of the writ petition on the sole finding that the appellant was entitled only to one unit, his sons not being majors.

2. BEFORE us the finding that the sons were minors has not been seriously challenged. What is urged is that since the decision determining the excess area was made before the 10th day of October, 1975, its reopening under Section 31(3) of the Uttar Pradesh Imposition of Ceiling on Land Holdings Amendment Act, 1976 was permissible, which prescribed a two-year period for redetermination and in the instant case the excess area was redetermined beyond that period. We are afraid that there is no basis for the challenge. The argument advanced is not supported by any material available on the present file. It is not clear as to when was the notice itself issued by the prescribed authority having some attributes of a determination had the landowner not objected and the same subsequently getting finalised. Section 31(3) was a transitory measure to even up those cases which stand decided prior to the 10th day of October, 1975 even though appealed against or not in accordance with the amended law on matters other than concept of family. No argument can now be allowed to be raised that this provision had come to unsettle the settled things on II scores. The appellant has raised this plea for the first time before us. We, therefore, do not permit this argument to be raised.

3. It is then urged that redetermination of excess area would now have to be one under Section 29 of the U.P.-Imposition of Ceiling on Land Holdings Act in account of succession opening on the death of the appellant Suleman in the year 1987. It is desired that since the prescribed authority instantly is duty bound under an existing remand order to determine the quality of land as to whether it is irrigated or not, it can be directed to go into the question of Section 9 and redetermine the excess area. The argument appears to us to be totally unfounded. A plain reading of Section 29 suggests that excess area of an owner can be redetermined if he receives inter alia other area by way of succession. It does not permit redetermination of the excess area of the deceased in hands of his heirs, if the land already stood declared excess. This is a point which no doubt could not arise in the High court, but we, in our part, do not find any substance herein,

4. The judgment under appeal of the High court, in the circumstances, requires no interference. Accordingly this appeal fails and is hereby dismissed without any order as to costs.