

(1980) 09 CAL CK 0023

Calcutta High Court

Case No: None

In Re. Ramapada Laha

APPELLANT

Vs

RESPONDENT

Date of Decision: Sept. 11, 1980

Acts Referred:

- West Bengal Land Reforms Act, 1955 - Section 14, 14T, 2(7)

Citation: 85 CWN 46

Hon'ble Judges: G.N. Ray, J

Bench: Single Bench

Advocate: Madan Mohan Mullick, for the Appellant;

Final Decision: Dismissed

Judgement

G.N. Ray, J.

In this Writ Petition, adjudication made u/s 14T of the West Bengal Land Reforms Act in Case No. 218 of 1978 by the Revenue Officer, Sonamukhi, is under challenge. It appears that for the purpose of computation of the ceiling land of the petitioner and the members of his family the area of the homestead land was, also taken into account by the Revenue Officer. u/s 2 (7) of the West Bengal Land Reforms Act, "land" has been described as follows :--

"Land" means agricultural land other than land comprised in a tea garden which is retained under sub-section (3) of Section 6 of the West Bengal Estates Acquisition Act, 1953 and includes homestead but does not include tank.

And in explanation u/s 2 (7) it has been provided that "homestead" shall have the same meaning as in the West Bengal Estates Acquisition Act, 1953. "Homestead" under the Estates Acquisition Act has been defined to the following effect :--

"Homestead" means a dwelling house together with any courtyard, compound, garden, out-house place of worship, family graveyard, library, office, guest-house,

tanks, wells, privies latrines, drains and boundary walls annexed to appertaining to such dwelling house.

Under Section 14K, "Ceiling area" means the extent of land which a raiyat shall be entitled to own. Sec. 14M has prescribed the quantum of land which at the maximum a raiyat can hold.

"Standard hectre" has been defined in clause (f) of Section 14 K of the West Bengal Land Reforms Act and according to the definition "standard hectre" means--

(i) in relation to an agricultural land, an extent of land equivalent to--

a) 1.00 hectre in an irrigated area,

b) 1.40 hectre in any other area,

(ii) in relation to any land comprised in an orchard, an extent of land equivalent to 1.40 hectre.

Relying on the said definitions, it is contended by the petitioner that although by the inclusive definition of "land" "homestead" has been included as agricultural land in respect of which the provisions of the Land Reforms Act have been made applicable but for the purpose of determination of ceiling land of the raiyat and his members of the family "homestead" land cannot be treated as agricultural land and if the provisions relating to ceiling area of different categories of land are referred to, it will appear that the question of irrigated and non-irrigated area and of "standard hectre" cannot properly fit in with "homestead", land. Accordingly, the petitioner contends that although homestead is agricultural land by inclusive definition of land, "homestead" by necessary implication cannot be included as agricultural land for the purpose of determination of ceiling land under the provisions of Section 14. I am, however, unable to subscribe to the said contention of the petitioner. "Homestead" of a raiyat was treated as agricultural land even under the Bengal Tenancy Act and the general concept of "homestead" prevalent in this country has been determined by various judicial decisions. In the Estates Acquisition Act. "homestead" has been defined, in a manner which corresponds to such accepted concept. The Legislature keeping in mind such accepted concept of homestead prevalent in the country, has defined "homestead" in Section 2(7) of the West Bengal Estates Acquisition Act. It may, however, be noted that for the "purpose" of ceiling of different categories of lands, "homestead" has been treated as a separate unit in the Estates Acquisition Act. Even assuming that the concept of "homestead" may not fit in with the ordinary agricultural land, it does not appear that expressly or by any implication the Legislature intended to exclude homestead from the ceiling of agricultural land of a raiyat and his family members. By inclusive definition of "land" "homestead" in its broader concept as defined in the Estates Acquisition Act has been included within the meaning of "land" in the Land Reforms Act. The ceiling for "agricultural land" and orchard has been provided for in the Land

Reforms Act. The Legislature has made special provision for "orchard" for the purpose of ceiling land of the raiyat but it has not made any provision for retention of "homestead" separately although by inclusive definition "homestead" has been included as agricultural land. It is thus quite evident that the Legislature intended that "homestead" being agricultural land within the meaning of Land Reforms Act should also be taken into account for determination of agricultural land ceiling.

2. In the aforesaid circumstances, the adjudication made in the said proceeding u/s 14T cannot be held to be illegal or contrary to the provisions of Land Reforms Act. In the circumstances no interference is called for in the writ jurisdiction and the application is accordingly dismissed.