Kashinath Ramji Shirsat Vs State of Maharashtra

Court: Bombay High Court

Date of Decision: Aug. 9, 1973

Acts Referred: Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 â€" Section 10, 10(1), 12, 15(1)(a), 17

Citation: (1975) MhLj 479

Hon'ble Judges: P.S. Shah, J; B.N. Deshmukh, J

Bench: Division Bench

Advocate: B.R. Naik, for the Appellant; M.R. Kotwal, for the Respondent

Final Decision: Dismissed

Judgement

B.N. Deshmukh, J.
This is a writ petition against the order of the Commissioner, Poona Division, Poona, revising the order of the District

Deputy Collector, Rahuri Division, Ahmednagar, in a suo motu proceeding u/s 45 (2) of the Maharashtra Agricultural Lands (Ceiling on Holdings)

Act, 1961 (hereinafter referred to as the "Ceiling Act").

2. The brief facts are that the petitioner Kashinath is the father having three sons, viz. Karbhari, Changdeo and Sudhakar. Under the provisions of

section 12 of the Ceiling Act, the petitioner submitted a return in time before the District Deputy Collector, Rahuri Division. In that return he

showed 24 acres and 28 gunthas of land, which was fully irrigated, as the only property which was in his possession and owned by him. He filed

his return as the head of the joint Hindu family and mentioned seven persons as members of his family. They were himself, his two wives Gangubai

and Subhadrabai, his son Sudhakar, his daughter-in-law Kalindi wife of Sudhakar, and his two grand children by Sudhakar, viz. Dilip and

Subhash.

3. On the basis of this return the District Deputy Collector found that the conversion value of 24 acres and 28 gunthas of the twelve months

irrigated land would be 144 acres and 28 gunthas in terms of dry crop area. Since the District Deputy Collector found that there were two

additional members in the family in addition to the five members which artificially formed a family under the Ceiling Act, he declared the total

permissible holding at 144 acres of dry crop land. The excess of 28 gunthas was less than a fragment and hence a declaration was made that this

could be retained by the petitioner u/s 15 (1) (a) of the Ceiling Act. Under the circumstances the final declaration was that there was no surplus

and the entire property could be retained by the petitioner. This declaration was made on April 15, 1964.

4. The Commissioner, Poona Division, Poona, in a suo motu proceeding u/s 45 (2) of the Ceiling Act reopened the matter on September 23,

1965, and issued show cause notices not only to the petitioner but also to his three sons Karbhari, Sudhakar and Changdeo. Sudhakar never

appeared before the Commissioner in spite of the service of notice. Changdeo and Karbhari appeared and produced some documents and also,

addressed arguments through counsel engaged by them. After hearing all the parties that appeared before the Commissioner, he came to the

conclusion that Karbhari and Changdeo who posed to be the divided sons by partition of the original joint Hindu family have not shown that the

partition has taken place before August 4, 1959. Even though there may be a partition after August 4, 1959 it was a transfer or partition within the

meaning of clause (a) of sub-section (1) of section 10 of the Ceiling Act. Hence the Commissioner came to the conclusion that the Deputy

Collector had fallen into an error or serious illegality and his decision also suffers from impropriety. The return filed by the petitioner Kashinath to

that extent was not only erroneous but smacked of an attempt to conceal the property from the Ceiling Act authorities. In view of this conclusion,

the Commissioner inferred that the order passed by the Deputy Collector was erroneous and illegal and declared that not only Kasninath and

Sudhakar but the other two sons Karbhari and Changdeo and the members of their respective branches together formed a joint Hindu family of

which Kashinath was the head. He also found that the family property which was shown to be separately in possession of Karbhari and Changdeo

ought to have been added to the total property of the family and in that manner the holding of this family came to 143 acres and 27 gunthas. In

view of the increased number of members of the family, the Commissioner held that the family could retain with it 216 acres of dry crop land,

which was the maximum permitted under the Act. As there was no evidence before him for the purpose of conversion of 143 acres and 27 gunthas

into dry crop land, he sent back the case to the District Deputy Collector for declaration of surplus after conversion of 143 acres and 27 gunthas

into dry crop land and deducting therefrom an area of 216 acres of dry crop for the family. He also directed that after the surplus was declared it

should be delimited after giving the holders an opportunity to select the lands to be retained for the family. For the rest, the case should be dealt

with under sections 21 (2), 21 (4), 24 and 27 of the Ceiling Act.

5. Aggrieved by this order, initially this writ petition was filed by Kashinath Ramji Shirsat alone. However, Kashinath along with his two sons

Karbhari and Changdeo filed Civil Application No. 3218/69 for permission to join Karbhari and Changdeo as party-petitioners along with

Kashinath. This application was given before the matter could be disposed of by us. We have therefore allowed this petition application and at the

time we dispose of this petition, there are three petitioners before us Kashinath, being petitioner No. 1, and Karbhari and Changdeo, being

petitioners Nos. 2 and 3 respectively.

6. Dr. Naik for the petitioners raised particularly two grounds of attack before us. According to him, the Commissioner, Poona Division, Poona,

usurped jurisdiction u/s 45 (2), which was not vested in him, inasmuch as he should have considered and disposed of the revision application only

on the basis of the evidence that was on the record or that was brought on the record by the parties after notice from the Commissioner. He also

argued that so far as the proceedings before the Deputy Collector were concerned, no question of partition was ever raised or involved. It would,

therefore, be beyond the competence and jurisdiction of the Commissioner to consider the question of partition, which was an entirely new

question raised and also give a finding against the parties which is nothing but a matter of pure appreciation of evidence. In both these respects he

has over-stepped the revisional jurisdiction vested in him u/s 45 (2). His second ground, was that the Commissioner was in error in assuming that

the holder''s son Sudhakar and his wife and children though members of the joint Hindu family could not own separate property. In respect of both

these grounds he has referred to one judgment of the Division Bench of this Court on each of the grounds in support of the argument. We,

however, find no substance in any of the arguments addressed to us.

7. The first question raised before us is that the jurisdiction u/s 45 (2) of the Ceiling Act is a revisional jurisdiction of the State Government. It can

be exercised suo motu by the Government or on an application of a party, if made to it. However, the jurisdiction is to be exercised by way of

control over the proceedings under sections 17 to 21 as also u/s 27 for the purpose of satisfying itself as to the legality or propriety of any inquiry

or proceedings under those sections or of any order passed u/s 27. After such an examination, the State Government may pass such order thereon

as it deems fit, after giving the party a reasonable opportunity of being heard. Under sub-section (3) it is permissible for the State Government to

delegate these powers to the Commissioner, which has in fact been done, and these powers have been exercised in the present case by the

Commissioner of Poona Division.

8. Dr. Naik"s main attack is that question of partition between Kashinath on the one hand and his sons Karbhari and Changdeo on the other, never

formed the subject-matter of the inquiry before the District Deputy Collector and therefore it was not open to the Commissioner to rake up this

question and then to proceed to appreciate the evidence as if he were an appellate Court. He further urged that the Commissioner was bound to

exercise his own revisional jurisdiction only on the basis of the evidence which was on the record before the Deputy Collector and such additional

evidence as may have been produced before him by the parties who have received notice from him. No other evidence can be taken into

consideration. Even in the matter of appreciating this evidence he was acting like an appellate Authority and not as a revisional Authority. For

substantiating his argument that the Commissioner has to dispose of the petition only on the basis of the evidence already on record before him, he

referred us to a Division Bench judgment delivered in Parshuram Dashrath Badhe v. The State of Maharasatra (1912) Special Civil Application

No. 1857 of 1967 (with Special Civil Applications No. 1858, 1859 and 1860 of 1967), decided by Kantawala and Kania JJ., on August 8, 1972

(Unrep.). It is true that a superficial reading of that judgment might create an impression that Dr. Naik can draw some support for the argument he

is advancing before us. However, we will at once, point out that that judgment disposed of the writ petitions only on one point which the Division

Bench felt was good enough to dispose of that group of petitions. On the peculiar facts and circumstances of that case, the Division Bench was of

the opinion that the Commissioner took into account certain evidence which came into existence long after the death of the original petitioner, who

submitted the return u/s 12, and whose return was already heard and disposed of by the District Deputy Collector. Events occurring after his death

and evidence coming into existence after his death was reported by the Talathi to the Divisional Commissioner and he acted upon that evidence for

the purpose of revising the entire decision of the Deputy Collector. In the peculiar circumstances of that case it was held that that was an

irregularity and the Commissioner should not have acted in the manner in which he did. Since the Division Bench disposed of the main petition only

on that point, some observations, incidentally made, do seem to create an impression that no additional evidence need be looked into. They are

clearly obiter and they were not made with the intention of laying down the law on the subject. Since we find that that decision turned purely on the

facts and circumstances of that case and does not seem to lay down any general law which should govern revision applications u/s 45 (2), we do

not think that the decision could help the present petitioner in any manner.

9. Let us, therefore, examine the argument of Dr. Naik a little closer with a view to find out the nature of the revisional powers u/s 45 and the

function that is expected to be performed by the State Government or the Commissioner acting under that section.

10. The proceedings under the Ceiling Act normally originate as also terminate with the District Collector. The Ceiling Act envisages that the

enquiry under the Act shall be made by the Collector but the Deputy Collector is authorised to perform those functions. The original return is filed

before him and he is the only officer who collects information, examines returns and makes a declaration as required u/s 21. It is expected of an

experienced revenue officer like the Deputy Collector that the least he will do is to collect all possible information, about the family of the petitioner

and the property owned by that family or the several members of that family in severalty, from the village records. The object of the Ceiling Act is

well known. Of all forms of property, land is the primary type of property and the most important. By the nature of things it is limited and cannot

increase beyond a limit. It is therefore, a policy of law that there should be, as far as possible, fair distribution of the agricultural land. Any other

type of property can be developed and duplicated. Agricultural produce with modern mechanism can be expected to increase to a certain extent

but land itself can never be increased beyond a limit That being so, it is the object of this Act to limit or put a ceiling upon the holding of each

individual and family and the surplus land should be taken over by the State for being distributed amongst the landless people as per the provisions

of this Act. When the proposition is being considered, it would be well to remember that what is known as land hunger is a serious factor and

those who own and possess agricultural land to-day have no desire to part with it easily or voluntarily.

11. The inquiry under the Ceiling Act, therefore, would normally contemplate that the holder would find out ways and means to conceal the

property with a view not to part with it, and the Revenue Officer of the rank of Deputy Collector is entrusted with a duty to investigate fairly and

properly the real holding of the person concerned and declare the excess, if any, according to the faithful implementation of the Act. This being so,

it is plain to us that the Legislature had in mind these circumstances when revisional powers were given to the State Government u/s 45. In view of

the two factors which we have mentioned above, it may be that a party has succeeded, by playing a fraud upon the Revenue Officer, in concealing

some property which should have been really declared as surplus. This would be one way in which the real surplus would not be made available

for distribution.

12. There is yet another way in which there is a possibility-though we would wish to assume that this would be a very negligible incident-of the real

surplus not being declared either out of incompetent or negligent method of disposal by the Revenue Officer. In all these cases it is the desire of the

Legislature that the State'' Government suo motu or upon an application by some one call for record and proceedings, examine them and satisfy

itself as to the legality or propriety.

13. Having dealt broadly with the policy of the Act, let us now take one or two instances as to how a sort of tug of war might go on between the

Revenue Officer on the one hand and the holder of the land on the other. The Ceiling Act defines the expression ''family'' as well as ''person'' as

follows :

2. (11) ''family'' includes, a Hindu undivided family, and in the case of other persons, a group or unit the members of which by custom or usage,

are joint in estate or possession or residence;

2. (22) ''person'' includes a family;

Along with the two definitions above, we may look at the provisions of section 12 under which a return is to be submitted on or before a certain

date as mentioned therein. The responsibility of submitting this return is cast by this Act on any ''person'' who holds land in excess of Ceiling Act.

The person therefore who should file a return would either be an individual or a group of individuals or persons as contemplated by the definition in

section 2(11). It is therefore the permissible ceiling of such a ''person'' which is to be determined. Along with it we may read the provisions of

section 10 which deal with the consequence of certain transfers and acquisitions of land. Sub-section (1) of that section points out that if any

person after the fourth day of August, 1959 but before the appointed day, transfers or partitions any land in anticipation of, or in order to avoid or

defeat, the objects of this Act, or any land is transferred or partitioned in contravention of the provisions of sub-section (8), then in calculating the

ceiling area which that person is entitled to hold, the area so transferred or partitioned shall be taken into consideration, and land exceeding the

ceiling area so calculated shall be deemed to be in excess of the ceiling area for that holding, notwithstanding that the land remaining with him may

not in fact be in excess of the ceiling area. There are many other provisions to which we shall not refer at the present because we are only trying to

illustrate how the parties might try to flout the provisions of the Act in order to retain the land and what vigilance is required to be shown by the

Revenue Authorities in that behalf.

14. In view of the above legal position let us assume that a Hindu father has partitioned away his two sons after August 4, 1959 but before the

appointed day. Within the specified time after the appointed day, the father as a head of the family of the remaining members files a return in which

he neither mentions the fact of his sons having partitioned from him nor refers to the property at all in the possession of those sons. We may assume

that these separate sons also give their separate returns within the time prescribed by the Ceiling Act. It may further be assumed that if the land

shown by these three persons in their returns is separately examined without going beyond the return, each one of them is having land which falls

within the permissible ceiling area. If, however, all the lands shown by the three persons are put together as belonging to the joint family, they

exceed the ceiling area. In the circumstances stated above, what is the inquiry that the Deputy Collector is supposed to make? He must collect

information from the village records primarily as to whether there has been any partition between these persons after August 4, 1959 and before

the appointed day or thereafter. Assuming that for either of the reasons, which we have referred to above, he fails to have before him any evidence

of that partition and therefore accepts the returns of these persons and makes a declaration in each of these cases that there is no excess which

could go to the State for resumption, it may be that some well wisher in the village applies against these persons to the Commissioner and

enlightens him on the real state of affairs. It may also be that some revenue officer is transferred and the new officer posted gets an inkling of the

situation and informs the Commissioner about it. In either of these cases the Commissioner must try to find out whether there is any truth in the

information which he receives. He can do so by calling for the proceedings and also take into consideration such additional information as is

available to him. Of course the provisions of sub-section (2) of section 45 require that before coming to any final conclusion the Commissioner

must give a notice to the parties who are going to be affected and he must also give them a reasonable opportunity of being heard.

15. What is reasonable opportunity of being heard is now a matter which has been very well-settled by series of judicial pronouncements. If the

parties who are going to be affected by the proceedings which the Commissioner intends to take want to lead evidence, documentary or oral, the

Commissioner must permit them to do so, otherwise he would not be giving them a reasonable hearing. In many cases, as in the present case, it

may happen that persons like Karbhari and Changdeo who were given a notice by the Commissioner were not present before the Deputy

Collector at all when the return filed by their father Kashinath was being heard and considered. They may, therefore, have some case to urge and

they may be inclined to support that case by leading further evidence. When they are permitted to do all this, then only it can be said that a

reasonable opportunity is being given to them of being heard. When, however, such hearing is given and it becomes patent on the face of it that the

original petitioner and the added parties who are given notice formed a joint Hindu family on August 4, 1959 and all the lands which were in their

separate possession together formed joint Hindu family property. They have effected a partition or made some kind of partition like family

arrangements which are all transfers or partitions after August 4, 1959 and which are clearly hit by the provisions of section 10(1). What is the

effect of this disclosure of fact? It is apparent that the so-called partition or transfer is unlawful in the eyes of the Ceiling Act and to omit the other

persons as well as their properties from consideration while dealing with the return of the original petitioner is equally unlawful. The decision of the

Deputy Collector, in the circumstances on the face of them, suffers from an illegality. Needless to add that this would also be an impropriety in

view of the policy and the object of the Ceiling Act. When such evidence is being considered by the Commissioner and he comes to the conclusion

that here are unlawful transactions which ought to have been ignored by the Deputy Collector, would it not be a misnomer to describe this

phenomenon as mere appreciation of evidence not covered by the revisional powers of this Authority? The Ceiling Act is a social legislation meant

for doing justice to the landless persons whose hunger is to be partially satisfied by an honest and proper administration of that Act. The revision

conceived of u/s 45 is to find out such illegalities and improprieties. To collect facts only to find out the nature of illegality committed, is not,

according to us, usurping the jurisdiction of an appellate Court which has normally to take the same or different view on facts by appreciating

evidence.

16. When we look at the Ceiling Act from this approach of detached point of view, we find that there could be only one kind of illegality that can

escape the original processing and disposing of the return by the Deputy Collector, viz. that the party either by concealing or otherwise escapes a

proper declaration of the excess over the permissible ceiling. The revisional powers u/s 45 (2) are only meant to unearth all such illegalities by

which the object of the Act is being frustrated.

17. We might consider another illustration which also suggests to us from the facts of this case that the finding of the Deputy Collector is illegal. It

was the plea of the father Kashinath that though his another son Karbhari is joint with him, an area of 4 acres 4 gunthas out of S. No. 94 (3) was

let out to Karbhari by him and that formed a separate holding of Karbhari. This is not a case of concealing any property but pleading that this area

of 4 acres and 4 gunthas could form a separate property of Karbhari. Assuming this argument was accepted by the Deputy Collector, which in this

case has not been so accepted, would it not be open to the Commissioner while exercising revisional powers to hold not by the process of

appreciating the evidence but by the process of coming to a legal conclusion that this kind of finding is wrong? The very nature of joint family

property is such that every coparcener owns every bit of it and no one can say until partition takes place that he is a separate holder of a particular

piece of property. If Karbhari who is the owner of S. No. 94 (3) can also become a tenant of the same and therefore becomes a separate holder

of the same property, it is clearly an illegality on the face of it, which is writ large in the conclusion of the Deputy Collector that Karbhari is a

separate holder.

18. We have generally indicated the nature of the disputes that might arise under the Ceiling Act and have also given a couple of illustrations to

indicate the nature of inquiries that would be covered by the provisions of section 45. The addition of the area to the return of an applicant can

become possible only when he has attempted to save that land or conceal it by resorting to method which is unlawful and that is being discovered

by the revisional Authority. To come to a conclusion that certain land is excluded because of certain illegal act done is not to give a finding of fact

but to declare an illegality. This, according to us, is the general nature of inquiry that is not only permitted but must be conducted by the revisional

Authority under sub-section (2) of section 45.

19. Coming to the facts of this case, we find that there is hardly any reason to interfere with the conclusions reached by the Commissioner. The

Commissioner decided to examine the proceedings on three different grounds. The first ground was that two pieces of land out of S. No. 72

together measuring 25 acres and 4 gunthas stood in the name of Kashinath''s son Sudhakar but that land was not included in the return, though

Sudhakar was shown as joint. The second ground was that some four pieces of land together measuring 25 acres and 4 gunthas were with

petitioner No. 1 Kashinath all along, and under his cultivation. For some times he was a tenant thereof and thereafter he became the owner by

purchase. These lands have been excluded. The third ground was that his sons Karbhari and Changdeo were separate by partition after August 4,

1959 and that partition was required to be ignored for the purpose of Ceiling Act. On all these three grounds the Commissioner came to the

conclusion against petitioner No. 1 Kashinath as well as his sons and made a declaration which we have indicated above.

20. We will now consider whether there is any substance in Dr. Naik''s argument that partition was never in issue before the Deputy Collector and

that the Commissioner should not have considered the question of partition at all. When Kashinath gave a return and showed one son Sudhakar as

joint, the minimum that the Deputy Collector should have enquired from Kashinath was whether he has any more sons. He would have then the

information that Kashinath had other sons who had gone away from him by partition. The next question which would be most logical to ask would

be about the date of partition. If that partition was discovered to be of a date after August 4, 1959 it was for the Deputy Collector to issue notices

to the other sons who had been partitioned after August 4, 1959, but whose partition was required to be ignored under the provisions of the

Ceiling Act. The failure of the Deputy Collector to do this, amounts to a clear illegality and the rectification thereof by the Commissioner is to find

that the proceedings conducted by the Deputy Collector suffer from a serious illegality which must be rectified by exercising powers of revision.

21. We may now point out that not only the Commissioner issued notices to Karbhari and Changdeo but they appeared before him through a

counsel viz. Shri S. B. Gujrati. Kashinath was represented by Shri B. M. Korhalkar and Sudhakar, though served, was absent at the hearing.

Now, the only notice which Karbhari and Changdeo were to answer was to point out how they got property which is in their separate name. The

plea that was raised before the Commissioner by the father as well as the sons was that they have land in their separate name and they have

become members in their own right of co-operative societies and share-holders of a sugar mill. To the main query to them that the property in their

possession is a family property which has come to them, there was no reply. If they got it by partition, no evidence was led to show when that

partition took place. In the circumstances of the case the Commissioner came to the conclusion that here are sons who had admittedly family

properties with them and the date of partition is not being told nor does the revenue record indicate a particular date of partition. The only legal

inference to draw was that this was still the joint family property, which should have appeared in the return of the father Kashinath. In coming to

this conclusion we think that the Commissioner did no violence to the principles of natural justice nor did he embark upon a mere factual inquiry.

He was within his right under sub-section (2) of section 45 as he was curing a legal error committed by the District Deputy Collector. So far as the

tenanted lands which had ultimately become of the ownership of Kashinath no ground has been taken up in this writ petition.

22. So far as Sudhakar is concerned Dr. Naik argued that Sudhakar may be a member of the joint family and in that capacity shown in the return

of the father. There is no prohibition in law for Sudhakar to own property separately. He drew support for this argument from Division Bench

judgment of this Court in Madanlal Shankar Maliwal and Another Vs. State of Maharashtra and Another, . In that case the question related to the

return filed by the father who did not show the property separately owned by his sons in that return. When the Commissioner reopened the

proceedings on the ground that the property separately standing in the names of the sons ought to be clubbed together and directed accordingly,

the sons as well as the father filed a writ petition in this Court. What was urged before the Division Bench was that the Commissioner fell into an

error in merely relying upon the presumption of jointness under the Hindu law and coming to the conclusion that the property standing in the name

of the sons ought to be clubbed together with the property standing in the name of the father. What was urged was that the sons had produced

evidence and were willing to give further evidence that the properties standing in their names were separately owned by them in their own right and

simply because they are agricultural lands, they need not be clubbed together along with the property of the family. What was strongly urged was

that there is no prohibit on to a member of a joint Hindu family to acquire property separately and hold it in his own right. Since the Commissioner

concerned had merely acted upon the presumption of the Hindu law and had never taken into consideration the evidence, which was sought to be

led by the sons, the learned Judges came to the conclusion that that was a wrong decision. There is no prohibition in law to a member of the joint

Hindu family from acquiring and owning property in his own right. Such acquisition does not automatically become joint Hindu family property

simply because a co-parcener is a member of-the joint Hindu family. Having accepted this proposition to the limited extent, the learned Judges

pointed out that it was necessary for the Commissioner to consider the evidence that was led before him and then come to the conclusion whether

this was a separately earned property or it was still a further addition to the joint Hindu property. The learned Judges therefore allowed the writ

petition, quashed the order of the learned Commissioner and remanded the proceedings back to the lower Authority for further disposal according

to law and in the light of the observations of the Court.

23. We do not think either Sudhakar or his father can take advantage of the principle laid down in that ruling. It is true that two pieces of land out

of S. No. 72 standing in the name of Sudhakar were not shown at all by Kashinath in his initial return u/s 12. To that extent Sudhakar''s possession

was similar to that of Karbhari and Changdeo. The Deputy Collector therefore had no occasion to consider whether the lands standing in the name

of Sudhakar should also form part of the total holding of the family. That question was considered by the Commissioner for the first time but he had

issued notice to Sudhakar in that behalf. Karbhari and Changdeo tried to lead some evidence . of they being members of some co-operative

societies or share-holders of some sugar factory. Sudhakar did not appear and never challenged the notice issued by the Commissioner. Since

Sudhakar was already joint with his father an inference was drawn which was similar to the inference drawn against Karbhari and Changdeo. Even

in this Court Sudhakar has not appeared either as petitioner or respondent and though Kashinath has made an application that his two sons

Karbhari and Changdeo be joined as party petitioners to this writ petition, he has not included the name of Sudhakar in this application. When the

land standing in the name of Sudhakar is being clubbed with the land standing in the name of Kashinath, it is true that Kashinath is also affected in

an indirect manner. Kashinath then should have led evidence, though Sudhakar did not. In the face of this record and the clear position of a joint

Hindu family, if the Commissioner drew an inference against Sudhakar he was merely rectifying a legal error and not appreciating the evidence as

such for the purpose of giving a finding of fact.

24. Having thus considered both the points raised by Shri Naik, we are satisfied that the Commissioner has not committed any error or illegality

and has not usurped any jurisdiction which was not vested in him by law. Simplest case conceivable under the Ceiling Act is whether a person filing

return u/s 12 conceals some property and does not show at all. If we assume that the Deputy Collector rightly or wrongly or even negligently does

not make a, closer scrutiny and accepts the return, is it to be supposed that no further investigation by any other Authority is permissible? Without

investigating facts, which would show that there has been concealment of property which should have been shown in the return, no action seems to

be possible by the Commissioner or the Government u/s 45 (2). If in a case of above type, viz. of concealment, if it is to be assumed that no

additional fact finding or collection of evidence is to be done at all by the revising Authority and that that Authority must decide only upon the

record as it is, it would amount to giving premium to frauds. In fact in majority of cases, without additional information being available it will be

impossible to locate illegalities in the proceedings of the Deputy Collectors. In order to examine the error of law, to collect facts or evidence does

not amount to exceed the powers of revision u/s 45 (2). The powers u/s 45 (2) have got to be read in the: context of the Act in which that section

appears, the object of that Act and the functions the revenue officers either original or revising ones have to perform. That, according to us, is the

real scope of the inquiry by the revisional Authority u/s 45(2) of the Ceiling Act. Since the impugned order of the Commissioner does not seem to

suffer from any of the errors of fact or law as indicated above, the petition fails and is dismissed with costs.