

CASE NO.:
Appeal (civil) 1529 of 2000

PETITIONER:
KISHAN LAL

RESPONDENT:
STATE OF M.P. AND ORS.

DATE OF JUDGMENT: 22/02/2005

BENCH:
B.P. SINGH & ARUN KUMAR

JUDGMENT:
J U D G M E N T

(With office report)

Date: 22/02/2005 This Appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE B.P. SINGH
HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant(s)
Mr. A.K. Sanghi, Adv.

For Respondent(s)
St.of M.P. Mr.Mohit Singh, Adv.
Mr. Satish K. Agnihotri, Adv.

UPON hearing counsel the Court made the following
J U D G M E N T
The appeal is disposed of in terms of the signed judgment.
NON-REPORTABLE.

(Sheetal Dhingra)
Court Master

(Vijay Dhawan)
Court Master

[Signed judgment is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.1529 OF 2000

KISHAN LAL

Appellant (s)

VERSUS

STATE OF M.P. AND ORS.

Respondent(s)

B.P. SINGH, J.

Heard counsel for the parties.

This appeal by special leave has been preferred by the appellant against the judgment and order of the High Court of Madhya Pradesh at Jabalpur dated 23rd June, 1999 passed in writ petition No.2604/99. By the aforesaid judgment and order the High Court dismissed the writ petition preferred by the appellant and affirmed the orders passed by the

authorities under the Urban Land (Ceiling and Regulation) Act, 1976 holding that the appeal preferred by the appellant before the Commissioner Jabalpur Division being an appeal under Section 33 of the aforesaid Act was barred by time.

It is submitted before us that the Parliament enacted the Urban Land (Ceiling and Regulation) Repeal Act, 1999 (Act No.45/99) which received the assent of the President on 22nd

March, 1999 but which is deemed to have come into force in the States of Haryana and Punjab and in all the Union territories on the 11th day of January, 1999 and in any other State which

adopts this Act under clause (2) of Article 252 of the Constitution of India on the date of such

adoption. It is the further submission of counsel for the appellant on the basis of the notification

produced before us dated 9th March, 2000, that in exercise of the power conferred under clause

(2) of Article 252 of the Constitution of India, the said Act has been adopted by the State of

Madhya Pradesh by a resolution which was notified in the Gazette on 9th March, 2000, and which specifies 17th February, 2000 as the date with effect from which the said resolution operates.

We have perused the aforesaid Repeal Act of 1999 which has been adopted by the State of Madhya Pradesh and we find that under Section 3 the repeal of the principal Act does

not affect the vesting of any vacant land under sub-Section (3) of Section 10, possession of which

has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority. There are some other provisions in

the said Section which are relevant in deciding the question as to whether the repeal shall affect

such vesting. Sub-Section (4) of Section 3 provides that all proceedings relating to any order

made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any court, tribunal or other authority shall abate. The proviso to the said sub-Section is not relevant for the disposal of this appeal.

Counsel for the appellant submits that possession of the land has never been taken by the State or any person authorised by the State. On the other hand, counsel for the State

submits that possession has been taken and as a result thereof the land vests in the State of

Madhya Pradesh and is unaffected by the Repeal Act.

It is not necessary for us to make an inquiry as to whether the assertion of the appellant is correct or whether the denial by the State is justified. There is no material

before us on the basis of which we can record a finding whether the possession of the land has been

taken over from the appellant. Hence, for want of relevant material, we cannot go into this

question and it is only appropriate that the matter be remitted to the High Court for a decision

in accordance with law after giving to the parties opportunity of placing their respective cases

before the High Court. We are also not expressing any opinion on the question as to whether

sub-Section (4) of Section 3 will apply to the facts of this case in view of the fact that this appeal

was pending before this Court when the Repeal Act came into force. That is a matter which may also be considered by the High Court.

We, therefore, remit this matter to the High Court to consider the aforesaid questions which arise in this appeal on account of passing of the Repeal Act of 1999 which has been adopted by the State of Madhya Pradesh.

The High Court will give opportunity to the parties to place material on record, on the basis of which the High Court may give its decision.

The appeal is disposed of accordingly.

JUDIS