

PETITIONER:
RATNA SUGAR MILLS CO. LTD.

Vs.

RESPONDENT:
STATE OF U.P. AND OTHERS

DATE OF JUDGMENT 07/04/1976

BENCH:
KHANNA, HANS RAJ
BENCH:
KHANNA, HANS RAJ
GOSWAMI, P.K.

CITATION:
1976 AIR 1742 1976 SCR (3)1062
1976 SCC (3) 797

ACT:
U.P. Large Land Holdings Act, 1957, S. 2(15) "land",
scope of.

HEADNOTE:

The appellant acquired some land in district Jaunpur, for setting up a factory, but did not use the land for such purpose. Under the U.P. Large Land Holdings Act, 1957, he was required to pay holdings tax for the assessment years 1365 to 1368 Fasli. The appellant's application u/s. 143 of the U.P. Zamindari Abolition and Land Reforms Act, for treating his land as industrial land was rejected by the Sub-Divisional Officer. On appeal, the Collector affirmed the order. In further appeal to the Commissioner, the appellant succeeded as regards the years 1365 and 1366 Fasli. The State filed revision petitions. Subsequently the Commissioner held that the appellant was liable to pay holdings tax for the years 1367 and 1368 Fasli. The appellant also preferred revision applications. The Board of Revenue decided all the revision petitions in favour of the State, holding that the appellant's land was "sirdari" and not bhumidari, and it could not be meant for industrial purposes. The appellant's petitions under Article 226 of the Constitution were rejected by a Single Judge of the High Court on the ground that the disputed land constituted "land as defined in the Act, and that he was liable to pay the tax. On appeal, the Division Bench of the High Court affirmed the order.

It was contended before this Court that the land is held for industrial purposes, and is not "land" under sec. 2(15) of the Act.

Dismissing the appeals, the Court,

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HELD: The appellant holds the land as a sirdar. Permission to use the land in question for industrial purposes was not granted. The word "lands" used in the Act is wide enough to include all lands whether agricultural or not. The appellant cannot escape liability for payment of holding tax by keeping the land in question uncultivated. [1065-G, 1066C-D]

Raja Jagannath Baksh Singh v. State of Uttar Pradesh and Another, [1963] 1 S.C.R. 220, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 1076-1079 of 1971.

Appeals by special leave from the judgment and order dated the 8th January, 1970 of the Allahabad High Court in special appeals Nos. 965 to 968 of 1964.

V. M. Tarkunde, E.C. Agarwala and Miss Manik Tarkunde, for the appellant.

G. N. Dikshit, Shivapujan Singh, advocate for O. P. Rana, for the respondents.

The Judgment of the Court was delivered by

KHANNA, J.-This judgment would dispose of four civil appeals Nos. 1076 to 1079 of 1971 which have been filed by special leave by Ratna Sugar Mills Ltd. against the judgment of Allahabad High Court affirming on appeal the decision of the learned single Judge

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whereby the appellant's four petitions under article 226 of the Constitution of India to challenge the order dated December 18, 1963 of the Board of Revenue directing the levy of holding tax under the U.P. Large Land Holdings Act, 1957 (U.P. Act No. 31 of 1957) (hereinafter referred to as the Act) on the land of the appellant for the assessment years 1365, 1366, 1367 and 1368 Fasli had been dismissed.

In 1951 the appellant acquired land measuring 277.08 acres situated in village Argupur Kalan, tehsil Shahganj, district Jaunpur. According to the appellant, the said land was acquired for the purpose of setting up a factory for the production of paper and pulp. A licence was granted to the appellant in that connection. The appellant filed an application under section 143 of the U.P. Zamindari Abolition and Land Reforms Act for treating its land situated in village Agrupur Kalan as industrial land. In the course of those proceedings, the Tahsildar submitted a report on August 24, 1959 as under:

"As regards Argupur Kalan the whole area is recorded as sirdari of Ratna Sugar Mills and they pay Rs. 1495/- as annual land revenue. It is recorded in the Mills from before Zamindari Abolition and Mills Authorities continue to pay the recorded land revenue to Government. The whole area is lying Banjar and lies on both the sides of the railway line and Belwai Station. It has not at all been brought under cultivation nor the Mill has derived any benefit from it. It is really meant for industrial purposes but due to financial difficulties, they could not use it as such."

The Sub-Divisional Officer, however, rejected the application filed on behalf of the appellant under section 143 of the U.P. Zamindari Abolition and Land Reforms Act. The result was that the land in dispute could not be declared to be land for industrial purpose. Appeal filed by the appellant against the order of the Sub-Divisional Officer was dismissed by the Collector.

While the proceedings under section 143 of the U.P. Zamindari Abolition and Land Reforms Act were pending, the Commissioner held for assessment years 1365 and 1366 Fasli in an appeal filed by the appellant that the land in dispute was meant for industrial purposes and had on that account remained uncultivated. The appellant was held not liable to pay holdings tax for the land in dispute for the assessment years 1365 and 1366 Fasli. Two revisions were filed by the

State against the above order of the Commissioner. Subsequently for the years 1367 and 1368 Fasli the Commissioner held that the appellant was liable to pay holdings tax for the land in dispute under the Act. The appellant filed two revisions to the Board of Revenue against that order of the Commissioner. The four revisions, two filed by the State and two filed by the appellant, were decided by the Board of Revenue by a common order dated December 18, 1963. The revisions filed by the State were accepted by the Board, while those filed by the appellant were rejected. The

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Board held that as the land held by the appellant was sirdari and not Bhumidari land, it could not be declared to be meant for industrial purposes. The appellant was held liable to pay holdings tax for the land in question. Four petitions under article 226 of the Constitution were thereupon filed by the appellant to challenge the order of the Board of Revenue. The learned single Judge held that the land in dispute constituted land as defined in the Act and the appellant was liable to pay holdings tax for the same. The order of the learned single Judge, as already mentioned, was affirmed on appeal by the Division Bench.

Before dealing with the question involved in these appeals, it would be appropriate to refer to the relevant provisions as well as the objects and reasons.

The Act was published on November 1, 1957 but according to sub-section (3) of section 1, it was to be deemed to have come in force on the first day of July 1957. The objects and reasons which were mentioned in the Bill were as under:

"For securing successful implementation of the Second Five Year Plan, it has become necessary to augment the revenues of the State. The Agricultural Income Tax Act, which was enacted at a time when zamindari system was in force, has become out of date in the context of post war zamindari era. The principle of social justice enshrined in our Constitution also demands that disparities between agricultural incomes be reduced. More efficient exploitation of agricultural lands is essential for increasing the food production in the State. Those big holders who do not fulfil their duty towards society will have to sell up, as they should, if they fail in making increased contribution to the exchequer in the form of holding tax under this legislation. With these objects in view, the Agricultural Income Tax Act, 1948, is being replaced and this Bill is being introduced.

The Bill seeks to levy a holding tax on all land holdings the annual value of which exceeds Rs. 3,600. A cultivator who does not cultivate more than 30 acres of land would be exempt from this tax. The Bill is so designed as not to affect the small cultivator. It is proposed to levy the tax on a graduated scale so that the larger the holding, the greater the incidence of the tax."

Section 3 of the Act is the charging section. According to sub-section (1) of that section, there shall, save as hereinafter provided, be charged, levied and paid, for each agricultural year, on the annual value of each land holding, a tax called the holding tax at the rates specified in the Schedule provided that no such tax shall be charged on any land holding the area whereof does not exceed thirty acres. Section 2(15) of the Act defines land as under:

"(15) 'land' means land, whether assessed to land revenue or not, which is held or occupied for a purpose

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connected with agriculture, horticulture, animal husbandry, pisciculture or poultry farming and includes uncultivated land held by a landholder as such":

The definition of land-holder is given in section 2(16) and the same reads as under:

"(16) 'land-holder' means-

- (i) an intermediary, where the land is in his personal cultivation or is held as sir, khudkasht or grove, and
- (ii) any other person who holds or occupies land otherwise than as-
 - (a) an asami.
 - (b) a sub-tenant.
 - (c) a tenant of sir, or
 - (d) a sirtan.

and includes a manager or a principal officer, as the case may be:

Explanation-In this clause asami does not include an asami of Gaon Samaj:"

The Act took the place of the U.P. Agricultural Income Tax Act, 1948 which stood repealed in pursuance of section 28 of the Act from the date the Act came into force. It may also be pointed out that this Act has been itself subsequently repealed by section 45 of the U.P. Imposition of Ceilings on Land-holdings Act, 1961 as from June 30, 1961.

In appeal before us Mr. Tarkunde on behalf of the appellant has argued that the land in question does not constitute land as defined in section 2(15) of the Act and as such the appellant is not liable to pay holding tax on the said land. The land in question, according to the learned counsel, is held for industrial purposes and not for purposes of agriculture, horticulture, animal husbandry, pisciculture or poultry farming. The above contentions have been controverted by Mr. Dikshit on behalf of the State and, in our opinion, the contentions are not well-founded.

The land in dispute is shown to be Banjar land in the revenue records. Although the appellant acquired the land in 1951 for the purpose of setting up a factory, somehow the factory could not be set up and the land remained uncultivated. The appellant holds the land as a sirdar. An application was filed by the appellant for permission to use the land in question for industrial purposes, but that permission was not granted, the order of the Sub-Divisional Officer in this respect was affirmed on appeal by the Collector. A sirdar under section 146 of the U.P. Zamindari Abolition and Land Reforms Act, has the right to the exclusive possession of the land and entitled to use it for any purpose connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming. It is, therefore, apparent that after the order which was

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made on the appellant's application under section 143 of the U.P. Zamindari Abolition and Reforms Act, the appellant cannot be said to hold the land in dispute for industrial purpose. The purpose for which the appellant could after that date use the land was agriculture, horticulture or animal husbandry including pisciculture and poultry farming. The fact that the appellant did not cultivate the land in question would not warrant exemption from the liability to pay the holding tax. The definition of the "land" includes uncultivated land held by a land-holder as such. The High Court held that the words "as such" did not pertain to the purpose for which the land is held but have reference to the

land being held by the land holder in his capacity as a landholder. We see no sufficient ground to take a different view. In any case even if the words "as such" be construed to mean that the land should be held for the purpose of agriculture, horticulture, animal husbandry, pisciculture or poultry farming, the land in question should be taken to satisfy that requirement, because those are the only purposes for which the said land can now be used. The word "lands" used in the Act, as mentioned in the case of Raja Jagannath Baksh Singh v. State of Uttar Pradesh & Anr., is wide enough to include all lands whether agricultural or not. The object of the Act, as mentioned in the objects and reasons, is more efficiency exploitation of agricultural land for increased food production. The appellant, in our opinion, cannot escape liability for payment of holding tax by keeping the land in question uncultivated.

There is no merit in these appeals and the same are dismissed with costs. One hearing fee.

M.R.
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Appeals dismissed.