

'NON-REPORTABLE'

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S).2038-2039/2009

Vishwasrao Satwarao Naik & Ors. Appellant(s)

Versus

State of Maharashtra ... Respondent(s)

J U D G M E N T

Deepak Gupta J.

1. The Maharashtra Agriculture Land (Ceiling on Holdings) Act, 1961 (for short 'the Ceiling Act') was enforced with effect from 04.08.1959 in the area in question.

2. Satwarao, predecessor-in-interest of the appellant, held huge tracts of land but did not file return under the Ceiling Act. A notice was issued to him and in response to the notice, he claimed that he only held agricultural land measuring 127

acres and 8 guntas in various villages. On inquiry, the authorities *prima facie* found that on 04.08.1959, Satwarao held 468.08 acres of land and notice was again sent to him. He again filed reply and set up some sales, gifts and transfers which, according to him, took place prior to the enforcement of the Ceiling Act. For the purposes of deciding this case, it is not necessary to go into all the details. It would be sufficient to state that Satwarao was found to hold 333.14 acres of land. The admitted case of the parties is that keeping in view the quality of land and the area in which it is situate, the Sub Divisional Officer (SDO) held that Satwarao was entitled to retain 114 acres of land for his family. 44.51 acres of land was deducted as 'pot kharab' land i.e. land which is totally unfit for cultivation and thus, excluded from the ceiling limit.

3. Aggrieved by the order of the SDO, Satwarao filed an appeal in the Maharashtra Revenue Tribunal, Nagpur (for short 'the Tribunal'). The Tribunal found that the extent of uncultivable land was 106.24 acres and this was to be deducted. This deduction was done on the basis of some

survey report carried out by the revenue authorities. The appellants/their predecessor-in-interest carried the matter to the High Court and finally to this Court claiming that the extent of cultivable land is more than 106.24 acres but this was not accepted. As far as the State is concerned, it never challenged the order of the Tribunal or of the High Court.

4. The Act was amended later and the ceiling limit was changed to 54 acres from 114 acres. Therefore, a fresh return had to be filed. Satwarao had bequeathed his properties in favour of his daughter-in-law viz., Rajni Bai. Return on her behalf was filed by her husband Vishwasrao. In this return, it was claimed that the appellant is holding 119.03 acres of land including some lands which were individually owned by Rajni Bai and the lands bequeathed to her by her father-in-law. It would be pertinent to mention that in the return filed by Vishwasrao on behalf of his wife, the extent of pot kharab land was only shown to be 11.10 acres. On inquiry, it was found that the actual extent of land held by the family of the assessee was 249.19 acres. The Surplus Land Determination

and Distribution Officer (for short 'the SLDO') found that the total extent of 'pot kharab' land was 28.20 acres. The family was entitled to 54 acres as the ceiling limit and, therefore, 166.39 acres was declared to be excess land to be handed over to the State.

5. Appeal was filed by Vishwasrao before the Tribunal and the main ground urged was that when in the earlier proceedings 106.24 land was held out to be pot kharab, how could the pot kharab land be held to be less than that. The appeal with regard to this aspect was dismissed. Thereafter, the appellants filed writ petition in the High Court which has also been dismissed leading to the filing of the present cases.

6. The main ground urged is that since in the earlier proceedings held under the Act, the extent of pot kharab land was found to be 106.24 acres, then in the second ceiling proceedings the extent of pot kharab land could not come down to 28.20 acres. In this behalf, it is urged that the revenue authorities have relied upon the revenue entries with regard to the classification of the land and have not actually

visited the land to determine which land is cultivable and which land is not cultivable. In ceiling proceedings, it is the duty of the owner of the land to show which portion of his land is exempt from ceiling proceedings. In this case, in the return filed on behalf of the owner it was mentioned that only 11.10 acres of land is pot kharab. However, on the basis of the revenue record, the officer assessed the pot kharab land as 28.20 acres. The appellant led no evidence and has not even placed on record the revenue records prior to the earlier ceiling proceedings or the revenue record thereafter, to support his claim that even earlier the land which was declared to be pot kharab, was actually not classified as such in the revenue record. Presumption of truth is attached to the revenue record. No doubt, this is a rebuttable presumption, but it is for the party who alleges that the entries in the revenue record are wrong to lead evidences to rebut this presumption. This, the appellants have miserably failed to do. The appellants have also failed to lead any evidence to show that the revenue entries are wrong.

7. In view of the above, we find no merit in the appeals. The same are dismissed. Pending application(s), if any, stand(s) disposed of.

.....**J.**
(Madan B. Lokur)

.....**J.**
(Deepak Gupta)

New Delhi
April 25, 2018