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MST. SADIQUA BEGUM & ORS.

v.

B

THE BOARD OF REVENUE, MADHYA PRADESH & ANR.

February 1, 1985

[S. MURTAZA FAZAL ALI AND R. B. MISRA, JJ.]

C

Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 and M. P. Land Revenue Code, 1959—Both the statutes in pari materia—Revenue Officers exercising powers under both Acts cognately—Provisional power can be exercised by Revenue Officers under both Acts.

D

The Collector validated certain transfers on the applications of appellants u/s. 6 of the M. P. Abolition Act 1950 but a revision was taken by the Commissioner u/s. 50 of the M. P. Land Revenue Code 1959 (for short, the Code) against the order of the Collector. The appellants' contention before the Commissioner that he had no jurisdiction or power to revise the order of the Collector was rejected. The Board of Revenue in the revision and the High Court in a writ petition filed by the appellants confirmed the view of the Commissioner. Hence this appeal.

E

The appellants contended (i) that the order of the Collector was not revisable under the Code because the Abolition Act was a Code or a law complete in itself and conferred no powers of revision or appeal outside the Abolition Act and therefore the Commissioner had no jurisdiction to entertain *suo moto* revision; (ii) that since there was a right of appeal under sec. 84 of the Abolition Act, no revisional power could be exercised either by Commissioner or by the Board of Revenue under the Code; and (iii) that even assuming that the Abolition Act and the Code were statutes in *pari materia*, they possess two clearcut and separate powers, that is to say, no *suo moto* revision could lie to the Revenue Officers unless a revision or appeal was filed before the Commissioner by the party.

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G

Dismissing the appeal, to this Court

H

HELD : (1) A perusal of the schemes of the Abolition Act and the Code clearly indicates that the two Acts were in *pari materia* and the revenue officers were exercising powers under both the Acts cognately. There was no clearcut distinction between a Revenue Officer acting under the Abolition Act and acting under the Code. This being the position, it is manifest that the revisional powers could be exercised by the Revenue Officers under s. 50 of the Code and even under the Abolition Act as well. [802D-E]

(2) Under the provisions of, the Abolition Act as also the Code, both the Commissioner and the Board were appellate as also revisional authorities. Thus, when two powers were conferred on the said officers in a sort of a combined capacity, it cannot be said that merely because the formality of filing a regular appeal before the Commissioner or the Board was not adopted, a *suo moto* revision would not lie. [802H; 813A-B]

In the instant case, both the Commissioner and the Board of Revenue had appellate as also revisional powers. Both these powers being conferred on the same authority, the difference between the exercise of a revision or appeal was a mere idle formality and was of no consequence. [803C-D]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 245 (N) of 1971.

Appeal by Certificate from the Judgment and Order dated the 9th February, 1979 of the Madhya Pradesh High Court at Jabalpur in Miscellaneous Petition No. 361 of 1967.

Mukul Rohtagi and *A. G. Ramaparkhi* for the Appellants.

Ravinder Bana and *A. K. Sanghi* for the Respondents

The Judgment of the Court was delivered by

FAZAL ALI, J. This appeal by certificate is directed against a judgment of the Madhya Pradesh High Court dismissing the writ petition filed by the appellants against certain orders of the Revenue Officers under the provisions of the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (for short, 'Abolition Act') which came into force sometime in the year 1951. By virtue of s.6 of the Abolition Act all transfers made by proprietors at any time after 16th March 1950 were deemed to be void unless declared valid by the Collector on a proper application made to him. The transferees, in view of the aforesaid provisions, filed applications before the Collector in 1964 who validated the transfers by his order dated 6th June 1964. Against the order of the Collector a revision was taken by the Commissioner in exercise of his powers under s. 50 of the M. P. Land Revenue Code, 1959 (hereinafter referred to as the 'Code'). The transferees objected to the jurisdiction of the Commissioner on the ground that he had no power to revise the order of the Collector. This contention was rejected by the Commissioner and hence, a revision was taken to the Board of Revenue which confirmed the view of the Commissioner. It was against this order that the appellants filed a writ petition

A before the High Court assailing the orders of the Commissioner as also the Board of Revenue.

B The learned counsel for the appellants contended that any order passed under s.6 of the Abolition Act was not revisable under the Code because the Abolition Act was a Code or a law complete in itself and conferred no powers of revision or appeal outside the Abolition Act. Hence, it was contended, the Commissioner had no jurisdiction to entertain *suo moto* revision. In the second place, it was argued that under s. 84 of the Abolition Act appeals were provided against all orders passed by Revenue Officers and since there was a right of appeal provided under the Act, no revisional power could be exercised either by the Commissioner or by the Board of Revenue under the Code. It was also faintly urged before the High Court that the Revenue Officers when exercising powers under the Abolition Act were not exercising the powers as Revenue Officers but as a *persona designata* under the Abolition Act. In other words, the contention raised before the High Court, which was repeated before us, was that the Revenue Officers had a dual capacity—(1) under the Abolition Act, and (2) under the Code. The High Court, however, rejected the contention and, in our opinion, rightly.

E A perusal of the schemes of the Abolition Act and the Code clearly indicates that the two Acts were in *pari materia* and the revenue officers were exercising powers under both the Acts cognately. There was no clearcut distinction between a Revenue Officer acting under the Abolition Act and acting under the Code. This being the position, it is manifest that the revisional powers could be exercised by the Revenue Officers under s. 50 of the Code and even under the Abolition Act as well. We find ourselves in complete agreement with the view taken by the High Court on this point and which was also not seriously challenged before us.

G The sheet-anchor of the contention of the learned counsel for the appellants before us was that even assuming that the two statutes (Abolition Act and the Code) were statutes in *pari materia*, they possess two clearcut and separate powers, that is to say, no *suo moto* revision could lie to the Revenue Officers unless a revision or appeal was filed before the Commissioner by the party.

H It is not disputed in this case that the Commissioner Board of Revenue passed the order in exercise of their revisional powers. It would, however, appear that under the provisions of the Abolition

Act as also the Code, both the Commissioner and the Board were appellate as also revisional authorities. Thus, when two powers were conferred on the said officers in a sort of a combined capacity, it cannot be said that merely because the formality of filing a regular appeal before the Commissioner or the Board was not adopted, a *suo moto* revision would not lie. The contention could have some substance if there would have been any statutory embargo on the hierarchy of the Officers mentioned above to entertain any revision against an order passed by one authority without filing an appeal before it.

In the instant case, we find that both the Commissioner and the Board of Revenue had appellate as also revisional powers. Both these powers being conferred on the same authority, the difference between the exercise of a revision or appeal was a mere idle formality and was of no consequence.

The result is that all the contentions raised by the appellants fail and the appeal is dismissed but in the circumstances of the case without any order as to costs.

M. L. A.

Appeal dismissed.