

M/S. GANGESHWAR LTD.

v.

STATE OF U.P. AND ORS.

SEPTEMBER 19, 1995

[M.M. PUNCHHI, AND SUJATA V. MANOHAR, JJ.]

*U.P. Imposition of Ceiling on Land Holdings Act, 1960 : S.6—Exemption—Obtaining of Land—Not only to be used for industrial purpose—There should also be a certificate under s.143 of the Zamindari Act subsisting on the appointed date—Otherwise not entitled to exemption.*

The appellant Sugar Mill purchased about 31 bighas of agricultural land on 1.6.1971 prior to the coming into force of the amendment of 1973 to the U.P. Imposition of Ceiling on Land Holdings Act, 1960. After the amendment the area of the appellant Mill added with the above said land, constituted its holding. Before the Prescribed Authority initiated proceeding for determining the ceiling area, the appellant made an application to the Assistant Collector under the Zamindari Act and obtained a certificate in respect of the land purchased so that it could cease to be agricultural land for the purposes of the Ceiling Act.

When the Prescribed Authority proceeded to determine the ceiling area of the appellant, under S.11 of the Ceiling Act, the appellant produced the certificate obtained by it and claimed that right from the date of purchase the land was put to industrial use. The Prescribed Authority accepted the explanation and exempted the area of the land from the purview of such determination. The District Judge took a contrary view with which the High Court agreed. Hence this appeal.

The appellant contended that on that date of determination, the appellant had a declaration in its favour to the effect that the land was put to use for industrial purpose.

Dismissing the appeal, this Court

**HELD :** The understanding of Section 6 of the Ceiling Act by the High Court reflected in its two decisions,\* When none has been placed before the Court to the contrary, would require upholding on the principle

A of *stare decisis*, for if the provisions is sought to be reinterpreted to the contrary, it would upset the settled position in the State in so far as this area of law is concerned. Therefore, necessity of certainty and cold  
 B prudence requires that the orders of the High Court are upheld, all the more when the author of its judgment is the same Judge who gave a well considered and well reasoned judgment in *Jai Ram Singh's* case. Years  
 C later, he was so sure of the soundness of the view that the said precedent was not even adverted to by him in the judgment under appeal. Apparently, by then, the view of the High Court in that regard seemed to have been  
 D crystalized and applied in lot many cases that under Section 6(a), in order to obtain exemption the land must be shown not merely to be used for  
 E industrial purposes, but there should also be a subsisting certificate under Section 143 in relation to it on the appointed date. [802-B-D]

*State of Uttar Pradesh v. Har Bilas Goel and Others*, (1978) All. L.J. 1024 and *Jai Ram Singh v. State of Uttar Pradesh and Others*, (1978) All. L.J. 1031, approved.

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 820 of 1979.

E From the Judgment and Order dated 23.11.78 of the Allahabad High Court in C.M.W. No. 2581 of 1977.

Sunil Kr. Gupta, Ms. A.K. Verma and P.D. Tyagi, for JBD & Co. for the Appellant.

R.C. Verma and A.K. Srivastava, for the Respondents.

F The following Order of the Court was delivered :

G The appellant herein, is a Sugar Mill situated in the State of Uttar Pradesh. For its activity it required and came to own large tracts of land - some of which were agricultural. Those brought the appellant within the grip of the due statutes i.e. the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 and the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960. On 1.6.71, i.e. prior to the coming into force of the amendment to the Ceiling Act, the appellant purchased a little over 31 bighas of agricultural land. On the day when the Ceiling Act, as amended on 8.6.73, became applicable, the area of the appellant- mill added with  
 H the purchased area, constituted its holding. The Prescribed Authority,

under the Ceiling Act was to determine the ceiling area of the appellant and take out land which could be surplus. The appellant, before the Prescribed Authority could do anything in the matter, made an application on 6.3.75 to the Assistant Collector under the Zamindari Act for granting it a certificate under Section 143 of that Act with regard to the area purchased, so that it could cease to be agricultural land for the purpose of the Ceiling Act. That application was allowed by the Assistant Collector on 17.3.75. On that basis, when the ceiling area of the appellant was being determined by the Prescribed Authority under Section 11 of the Ceiling Act, the appellant projected the certificate under Section 143 of the Zamindari Act towards seeking exemption of the appellant's purchased area under Section 6(a) of the Ceiling Act. It provides that land used for industrial purposes, (that is to say, for purposes of manufacture, preservation, storage or processing of goods), and in respect of which a declaration under Section 143 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, subsists, shall not be taken into consideration for the purposes of determining the ceiling area applicable to, and the surplus area land of, the tenure-holder. The appellant projected, that right from the date of purchase, the said area had put to industrial use and, therefore, the declaration under Section 143 even though obtained on 17.3.75 related back to the date of the sale, and if not, at least to the date of the commencement of the Ceiling Act i.e. 3.6.73. The Prescribed Authority accepting the explanation of the appellant exempted the purchased area from the purview of such determination, but the District Judge held to the contrary, to which the High Court, in a petition under Article 226 of the Constitution, put its seal of approval. Hence this appeal.

Mr. Sunil Gupta, learned counsel appearing for the appellant has made tremendous effort to assail the orders of the High Court in claiming that Section 6, of the Ceiling Act which has a *non-obstante* clause, overrides any other provision in the Act, inclusive of Section 5, whereunder ceiling of a tenure-holder is required to be reckoned on the situation as existing on 8.6.73. According to him, Section 6, though operating from that date, requires that the declaration under Section 143 should be subsisting on the date when the ceiling area applicable to the tenure-holder was being determined by the Prescribed Authority. On that basis, it is contended by him that on that date, i.e. the date of determination, the appellant had a declaration in its favour to the effect that the land was put to use for industrial purpose.

- A We would have appreciated this attractive argument had there not been two decision of the Allahabad High Court in the way which are to the contrary. These are *State of Uttar Pradesh v. Har Bilas Goel and Others*, 1978 All. L.J. 1024 and *Jai Ram Singh v. State of Uttar Pradesh and Others*, 1978 All. L.J. 1031. The understanding of Section 6 of the Ceiling Act by the High Court reflected in these two decisions, when none has been placed before us to the contrary, would required upholding on the principle of *Stare decises*, for if we go to reinterpret the provision contrarily, it would upset the settled position in the State in so far as this area of law is concerned. Therefore, necessity of certainly and cold prudence requires us to uphold the orders of the High Court, all the more when the author of its judgment is no other than the Hon'ble M.P. Mehrotra J, who gave a well considered and well reasoned judgment in *Jai Ram Singh's* case supra. Years later, so sure was the Hon'ble judge of the soundness of the view that the said precedent was not even adverted to by him in the Judgment under appeal. Apparently, by then, the views of the High Court in that regard seemed to have been crystalized and applied in lot many cases that under Section 6(a), in order to obtain exemption the land must be shown not merely to be used for industrial purposes, but there should also be a subsisting certificate under Section 143 in relation to it on the appointed date.
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- E For the foregoing reasons, we dismiss this appeal and leave the orders of the High Court uninterfered with. No costs.

G.N.

Appeal dismissed.