

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1529 OF 2000

KISHAN LAL

Appellant (s)

VERSUS

STATE OF M.P. AND ORS.

Respondent(s)

(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)

Mr. Mohit Singh, Adv.

St. of M.P.

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)

(Vijay Dhawan)

Court Master

Court Master

[Signed judgment is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.1529 OF 2000

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Appellant (s)

VERSUS

STATE OF M.P. AND ORS.

Respondent(s)

J U D G M E N T

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.

.....J.
(B.P. SINGH)

.....J.
(ARUN KUMAR)

New Delhi

February 22, 2005.