

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 110 OF 1998

STATE OF H.P. AND ORS. .... APPELLANTS

VERSUS

ARUN SEN CHAND .... RESPONDENT

O R D E R

This appeal is by the State of Himachal Pradesh challenging the validity and correctness of the impugned Judgment passed by the Division Bench of the High Court in Regular First Appeal No. 61 of 1974. The respondent filed a civil suit for declaration that he is owner-in-possession of vast areas of land situate in different villages of Tehsil Solan and that no part of the said land vested in Government under Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 (for short, "the Act"). The learned Single Judge of the High Court partly decreed the suit. The State, aggrieved by the judgment and decree passed by the learned Single Judge, filed a Regular First Appeal before the High Court. The Division Bench of the High Court dismissed the appeal. The State pursued the matter further

..2/-

.2.

and filed the special leave petition before this Court and this Court remitted the case to the Division Bench of the High Court to take into consideration the additional evidence and then dispose of the matter on merits. After remand, the impugned judgment is passed by the Division Bench of the High Court. Hence this appeal.

The learned counsel appearing for the appellant-State urged that the lands in question said to have been held by the respondent were not in personal cultivation, as such decree ought not to have been passed in his favour giving declaration, as sought for. He drew our attention to Section 27 of the Act. He submitted that the only question to be examined is : whether the lands in question were in personal cultivation of the respondent or not. As is evident from the impugned judgment, the Division Bench of the High Court having looked into the evidence placed on record and particularly, looking to the 'jamabandis' Exhibit P.1 to Exhibit P.8 and Exhibit D.1 to Exhibit P.23, concluded that the lands were in personal cultivation of the respondent. This finding arrived at by the Division Bench

is not shown to us either based on no evidence and that no reasonable finding could be recorded on the basis of evidence that the lands were in personal cultivation of the

..3/-

.3.

respondent. Essentially, it is a question of finding of fact. The learned Single Judge also in the original suit took the view that the lands were in personal cultivation of the respondent. Although, the learned Single Judge decreed the suit partly, limiting in the area. The Division Bench of the High Court decreed the suit fully, of course, excluding the area of the land in possession of the tenants. The contention on behalf of the appellant that since the lands in question were entered in the revenue record as 'ghasni', that could not be taken in personal cultivation of the respondent, was rejected by the learned Single Judge as well as the Division Bench in the light of the evidence placed on record and looking to the facts and circumstances of the case.

Under the circumstances and with no other point that arises for consideration, we do not find any good ground to upset the finding recorded in the impugned judgment. Thus finding no merit, we dismiss this appeal, but, with no order as to costs.

.....J.

(SHIVARAJ V. PATIL)

.....J.

New Delhi, (D.M. DHARMADHIKARI)  
October 29, 2003.  
ITEM NO. 104

COURT NO.8

SECTION XIV

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

CIVIL APPEAL NO. 110 OF 1998

STATE OF H.P. AND ORS. .. APPELLANTS

VERSUS

ARUN SEN CHAND .. RESPONDENT

DATE: 29/10/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For appellant (s)Mr. J.S. Attri, Adv.

For respondent (s)Mr.Siddharth Chaudhary, Adv.  
for Mr. M.C. Dhingra, Adv.

Upon hearing counsel the Court made the following  
O R D E R

Mr. J.S. Attri, learned counsel for the State made his submissions for 15 minutes.  
The appeal is dismissed in terms of the signed order with no order as to costs.

Sarita(Shelly Sengupta)  
Court Master

(Signed order is placed on the file)