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Case Comment – State of U.P. v. Roshan Singh & Ors.

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Abstract

This article is a case commentary on the landmark case “State of U.P v. Roshan Singh & Ors”. This case commentary entails necessary facts of the case, issues, sections involved from various legal frameworks, arguments of petitioner and respondent, judgment held, the point of law established, reasoning, and analysis of the judgment. Every aspect of this case is covered rigorously. The judgment of this case sketched out the scope of section 151 of CPC when any other provision is in existence on the same matter on which section 151 of CPC is approached.

Therefore, a commentary on this case is of paramount significance as it decides when section 151 can be invoked to solve the matter.

Details of the Case

Citation – AIR 2008 SCR 1190

Court – Supreme Court of India

Decided on – 16th January, 2008

Petitioner – State of U.P.

Respondent – Roshan Singh & Ors.

Coram – Hon’ble Justice Dr. Arijit Pasayat and Hon’ble Justice Aftab Alam

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Advocates appearing on behalf of the Petitioner – Sri V.K.S. Chaudhary, Additional Solicitor General

Advocate appearing on behalf of the Respondent – Smt. Archana Srivastava

Facts of the Case

1. State of U.P (hereinafter referred to as petitioner) declared an area of 17 Bighas, 10 Biswas, and 2 Biswanis of Roshan Singh (hereinafter referred to as Respondent) surplus after issuance of notice according to Section 10(2) of U.P Imposition of Ceiling on Land Holdings Act, 1954.
2. Post declaration, consolidation operation commenced, under section 107 of the above-mentioned act, proceedings commenced on 28/03/1974. After that, the respondent was allowed to register an objection.
3. Respondent registered his objection on 25/05/1974. So after considering all the facts including the objection of the respondent, the prescribed authority passed an order dated 14/1/1980 in which it was held that the land was surplus, but according to the order, the prescribed authority allowed the respondent to indicate the choice of the land to be retained.
4. Respondent did not respond to this order, i.e. he did not indicate the choice of the land that he wishes to be retained. Therefore, as he did not do that, an order by the prescribed authority dated 08/04/1982 declared the whole land as surplus. So, the possession of the land was taken as surplus. The respondent was not satisfied with this decision. So he opted to appeal this decision.
5. He appealed under Section 151 of the Civil Procedure Code, 1908, even when an express provision was enshrined in Section 12 of the up Ceiling Act for this issue. He appealed that in consolidation proceedings different area was included than which has

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been declared as surplus. The prescribed authority rejected the respondent's plea. He further appealed in the district court, but they also rejected his plea.

6. On his Appeal to the high court, the plea was accepted. The high court overturned the judgment of the prescribed authority. They passed an order according to which the surplus land was distributed. The petitioner was not satisfied with the high court's judgment, so he filed a special leave petition to appeal. They were of the thinking that the respondent was not authorised to file an appeal through section 151 because an express provision was mentioned in section 12 for this issue and there are many other reasons because of which this appeal was filed against the respondent.

Issues raised

1. Whether the Special Leave Petition filed by the respondent is maintainable?
2. Whether a person can resort to Section 151 of CPC to meet ends of justice even if there is an express provision which deals with the issue because of which the cause of action arose?
3. Whether the surplus land belongs to the respondent?
4. Whether there were two different areas; one under the UP Imposition of Ceiling on Land Holdings Act and one under the consolidation act?
5. Whether the areas being different means that resorting to Section 151 is permissible?

Contentions on behalf of the Petitioner

1. The Counsel of the petitioner argued that the order of the high court was erroneous as the respondent was wrong in the first place in resorting to choosing section 151 of CPC, 1908 to meet ends of justice. He argues that Section 151 cannot be maintained when already there is a statutory act or forum which can be availed to seek justice. He further

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argued that the respondent's side cannot resort to section 151 by stating that there were two different fields, so one can be governed by the consolidation act and the other by the UP Imposition ceiling act. To refute the above assertion of the respondent, the counsel states that even if the area is different, but still can be considered as same because it was based on the consolidation act, so now the respondent cannot resort to section 151 as it is concluded through the application of section in consolidation act.

2. He also argued that the respondent should not be given the part of the disputed land as a long period was given to the respondent to indicate the choice of land he wishes to retain, but he did not respond nor did he appeal against the order of the prescribed authority under section 12 of the consolidated act and instead appealed under section 151 of CPC. Therefore, because of this, the decision of the high court is not only unreasonable but also cryptic. To bolster his argument, he cited the case *State of West Bengal and Ors. Vs Karan Singh Binayak & Ors.*², in which it was held that the inherent powers guaranteed under section 151 to courts cannot be invoked to re-open the settled matters. It was also held that these powers cannot be used where there are specific provisions of an act to deal with the situation. Therefore, it would be an abuse to allow the settled matters to re-open by resorting to section 151 CPC. Ergo, the judgment of this case bolstered the argument of the petitioner that the special leave petition is maintainable as section 151 of CPC cannot be invoked in the present case.
3. Therefore, these were the arguments of the petitioner.

Contentions on behalf of the Respondent

1. The counsel of the respondent put forward his argument that the court can invoke section 151 of CPC to meet ends of justice. He argued that when there is a gross miscarriage of justice then the aggrieved party can approach the court by invoking Section 151, CPC even if there is an express provision for the situation. He further

² *State of West Bengal and Ors Vs Karan Singh Binayak & Ors*, (2002) (4) SCC 188 (India)

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argued that the inherent powers are necessary to do right and undo the wrong which happens in the course of the administration of justice. Therefore, the respondent was not wrong on his part to invoke jurisdiction under Section 151, CPC, as the surplus land of the respondent was distributed by the honourable high court which seems very reasonable for the fact that the respondent did not indicate the choice of the land that he wishes to be retained when the notice was given. But giving all of the surplus lands to the petitioner on the basis that it would be used for public purposes would be arbitrary and unreasonable which would be a miscarriage of justice, so because of it using section 151 of CPC would not be unreasonable.

2. The counsel of the petitioner also argued that the validity of the prescribed authority can be questioned, as it was held in “Raja Yuveraj Singh v. Prescribed authority”, that prescribed authority is not a court. It is only a tribunal of limited jurisdiction.³ So a judgment of it can be appealed under Section 151 of CPC as it has only limited jurisdiction which a given act gives them. Therefore to seek justice, one cannot get encumbered as a result of the judgment of prescribed authority, one should have the freedom to appeal under Section 151 and in this case, the respondent needs to meet the ends of justice by invoking the jurisdiction under Section 151. So by doing that, he did not exceed the jurisdiction.
3. Therefore, these arguments of the respondent according to which he wants to prove that the respondent did not do any wrong by invoking the jurisdiction of section nor did do any wrong as there cannot be two different areas one under the up imposition act and one under the consolidation act. So as it is governed by one act, Section 151 of CPC can be invoked.

³ Raja Yuveraj Singh Vs Prescribed authority, AIR 1968 All 305 (India).

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Laws Involved

Constitution of India

1. **Article 136** - According to this Article, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment or order from any court or tribunal. The appeal of the respondent against the order of the high court was done according to this section. The State of UP was not content with the decision of having surplus land distributed, so they directly appealed without and certificate by the High Court. They resorted to Article 136 by which they filed a Special Leave petition to appeal in front of the Supreme Court.
2. **Article 32** - According to this Article, individuals may approach the Supreme Court in case of any violation of fundamental rights through the procedure of writs.⁴ The respondent also filed a writ petition before the Supreme Court as there was a violation of his legal right to approach a court through a given section.

Code of Civil Procedure

1. **Section 151 -Saving of Inherent Powers of the Code:** - This section authorizes the court to invoke their inherent powers to meet ends of justice or to prevent any abuse of the court. This was the section on which the whole case of “State of UP V. Roshan Singh” was based. The whole issue revolved around the fact that whether the respondent was authorized to invoke jurisdiction under Section 151 or not.
2. **Order 9** - This order deals with the issues where any of the parties does not appear in the court or does not respond to the court’s notice. It also envisages in it the consequences concerning apropos their non-appearance. This order was relevant in the present case, as the respondent did not respond to the notice of the prescribed authority

⁴ Indian Const. Art. 32. Cl. 2

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by appearing in the court or by indicating the choice of land that he wishes to retain. Therefore, this issue would be governed by order 9 as it is about the appearance or response of the parties.

U.P. Imposition of Ceiling on Land Holdings Act

- 1. Section 10(2)** - According to this section, the prescribed authority is authorized to state the value and the share of the parties in a joint holding, and also calls the parties on so that they can file objections, if they have any regarding the share they got or about any of the issues ascertained by the prescribed authority. According to this section only, the land of the respondent was declared as surplus, and aftermath consolidation operation commenced. According to this section only, the respondent was supposed to respond as to which part of the land he wishes to retain.
- 2. Section 12** - This section authorizes the prescribed authority to decide the objections after thoroughly going through the evidence that any of the parties produced and also by giving them the opportunity of being heard. So after going through the above-mentioned procedures, the prescribed authority can accordingly determine the surplus land. This was the express section that provided the remedy for the respondent's issue, but still the respondent resorted to Section 151, CPC. This section was the redressal mechanism to which the respondent should have resorted.
- 3. Section 13** - This section gives the respondent a way by which he could appeal against the order of the prescribed authority. According to this section, the respondent could have approached the district court and eventually the high court, but he did it through Section 151 of CPC which was impermissible as expression provisions were enshrined in this section.

U.P. Consolidation Act

- 1. Section 3(2)** - 'Consolidation' means re-arrangement of holdings in a unit amongst several tenure-holders in such a way as to make their respective holdings more compact.

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According to this section, consolidation operation commenced, after which the respondent was allowed to file his response to the notice sent under Section 10(2) of the Ceiling Act.

What has been held?

The prescribed authority passed an order which rejected the claim of the respondent of having the surplus land distributed. The appeal of the respondent in the court of 111 Additional District Judge, Banda also rejected his plea and hence dismissed. The respondent further appealed in the high court where his plea was accepted and also the high court overturned the decisions of the inferior courts. The high court held that the surplus land does not only belong to the petitioner so it needs to be distributed, therefore it ordered that surplus land needs to be distributed.

Finally, the petitioner filed a special leave petition to the Supreme Court as they were of the thinking that the high court's decision was such which caused a gross miscarriage of justice. The Supreme Court accepted the special leave petition after carefully analysing the case "State of west Bengal v. Karan Singh Binayak & Ors."⁵ which they also cited in their holding, which the counsel of the petitioner cited while arguing for the petitioner. They also analysed and therefore cited the case "Arjun Singh Vs Mohindra Kumar & Ors" in which it was held that the court can meddle in a matter only if the respondent's side can prove that the issue lacked a specific statutory power and also that without invoking the inherent powers of the court, the ends of the justice could not be met.⁶ Therefore, after accepting the special leave petition, they gave a judgment in the favour of the petitioner that the orders of the high court in these appeals cannot be maintained and therefore, should no longer be applicable. Therefore, the Supreme Court allowed all the writ petitions as the first writ petition was linked to the other two writ petitions. Hence, the appeal was allowed under Article 136 of the Constitution of India.

⁵ Supra note 2.

⁶ Arjun Singh Vs Mohindra Kumar & Ors, 1964 SCR (5) 946 (India).

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Point of Law Established

In this case, a very important point of law was established which turned out to be of great precedence for many cases. The point of law established was that the object of Section 151, CPC is to supplement or help in the process of justice and not to override or evade other expressions of CPC or other statutes. It was further established that Section 151, CPC would not be available if there is an alternative remedy available under CPC or any other statute which is considered to be a well-settled ratio of law.

Therefore, restricting the operative field of power, i.e. the same cannot be considered as inherent powers which could be exercised in any circumstances. It was also established that the inherent powers conferred under Section 151, CPC are in addition to the express powers conferred onto for the given situation. Therefore, Section 151, CPC cannot be invoked where there is an express provision that enshrines in itself the relief which a party can claim by following that section. The power under Section 151 can only be used to supplement the provisions of the code not to override or evade the other express provisions of CPC or any other statute.

Reasoning

The Supreme Court was of the reasoning that if there is already a section that solves a particular issue, then using the inherent powers of the court to solve it, makes it very confusing. As in the long run, it can cause a state of res judicata because the parties would resort to different acts for the same case in different courts. Therefore, it is important to prevent this by declaring that if a remedy is available in an act of which there is an issue then inherent powers of the court under CPC should not be invoked. The reasoning of the court was very simple that multiplicity of proceedings should be avoided and this would be one of the very important ways by which this can be prevented, to avoid confusion, and to reduce the backlog of the case, as if it would be permissible then there will be two different cases of the same issue under different acts.

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Conclusion and Analysis

To conclude this case analysis, it can be said that this case was a landmark one. As it laid down a principle of law which turned out to be important, as it helped in the assessment of the jurisdiction of the court and also helped in the assessment of the inherent powers of the court. It also laid down one of the criteria by which a writ petition could be allowed under Article 136 of the Constitution.

This case solves a contentious issue, wherein the respondent side argues that their legal right has been violated by not allowing them to resort to Section 151 of CPC. The petitioner argues that there is an express provision, so because of that section 151 cannot be resorted which the express provision addresses. The Supreme Court Judgment is unambiguous and clears this issue. The holding of the case agrees with the argument of the petitioner, but it should have issued a reason or so, as to how not resorting to the expression provisions would not come across as reasonable to meet the ends of justice. Other than this, the judgment seems very appropriate as it prevents res judicata, and also the ratio of the judgment is such which would act as a great precedent for many future jurisdictional cases.