
(2016) 11 AHC CK 0127
In the Allahabad High Court
Case No : Writ-C No. 30413 of 2016

Abdul Wahid

APPELLANT

Vs

Kanwar Pal

RESPONDENT

Date of Decision : 11-11-2016

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 157A,
Section 166, Section 167

Citation : (2017) 134 RD 1

Hon'ble Judges : Anjani Kumar Mishra, J.

Bench : Single Bench

Advocate : C.S.C, Rajesh Yadav, Advocate, for the Respondents; Gulrez Khan and Javed Husain Khan, Advocates, for the Petitioners

Final Decision : Dismissed

Judgement

Anjani Kumar Mishra, J. - Heard Sri Gulrez Khan, learned counsel for the petitioners and Sri Rajesh Yadav, who has accepted notice on behalf of respondent no.17, Gaon Sabha as also the learned Standing Counsel for the State-respondents.

2. The writ petition is directed against an order dated 31.10.2011 passed by the respondent no.17, Additional Collector (Administration) Saharanpur directing the land plot nos.496 area 0.728 Hectare, 497 area 0.387 Hectare, 495-M area 0.338 hectare, 500M area 0.100 hectare, 505M area 0.046 hectare, 508M area 0.100 hectare, 509M area 0.011 hectare, 511Ga area 0.441 hectare, 523M area 0.049, 525Ga area 0.423 hectare, 526 M area 0.338 hectare and 524 area 0.646 hectare situated in village Dara Milkana Bairun, Pargana, Tehsil and District Saharanpur to vest in the State on account of their sale deed having been executed by the power of attorney holder of the recorded tenure holder, who belong to the Scheduled Caste, in favour of a person not belonging to the Schedule Caste without having obtained prior permission contemplated in Section 157- A of the U.P. Zamindari Abolition and Land Reforms Act.

3. The relevant facts are that Ghasitu, the recorded tenure holder, belonging to the Scheduled Caste, through his power of attorney, Lala Desraj, executed a sale deed on 26.08.1988 in favour of one Harish Chandra Chhabra. This sale deed was executed on 29.08.1988. On mutation being sought on its basis, a report was made on 31.01.2009 that the sale deed had been executed without obtaining prior permission contemplated under Section 157-A of the Act. The proceedings, under Section 166/ 167 of the Act were thereafter, initiated.
4. It appears that several sets of mutation applications were filed. Apart from the above, mutation was also claimed by one Jamni, alleging herself to be the daughter of Ghasitu and entitled to succeed to his property.
5. Another mutation application was filed by one, Kunwar Pal, alleging himself to be the grand son of Ghasitu and claiming on the basis of a will dated 28.05.1992.
6. The petitioners also claimed mutation on the basis of a registered will dated 31.05.2002, alleged to have been executed in their favour, by Ghasitu.
7. The Additional Collector (Administration) by his order dated 30.10.2011, found that the sale deed, in favour of Harish Chandra Chhabra, had been executed without obtaining the prior permission, contemplated under Section 157-A of the Act. The sale was therefore, held to be contrary to the provisions of the Act and therefore, void, in view of Section 166, thereof. Accordingly, the land was ordered to vest in the State.
8. The claim for mutation, filed on behalf of the petitioner, Kunwar Pal and Smt. Jamni were all repelled on the ground that since the sale deed dated 26.08.1988 registered on 29.08.1988 in favour of Harish Chandra Chhabra was of the entire land held by Ghasitu, no land was left to be inherited or bequeathed.
9. Thus, the finding against the petitioner is that their alleged testator, had no land left with him, which could have been bequeathed to the petitioners.
10. Aggrieved by this order, the petitioner preferred a revision. Other revisions were also filed. They have all being decided by a common order and dismissed vide order date 30.03.2016.
11. It is these two orders, namely, the order dated 30.10.2011 passed by the Additional Collector (Administration) and the order dated 30.03.2016 passed by the Additional Commissioner (Administration), which are impugned in this writ petition.
12. The petitioner has not challenged the findings recorded in the impugned orders that Ghasitu having executed a sale deed, through his power of attorney holder, in favour of Harish Chandra Chhabra, he was thereafter, left with no other land.
13. Under the circumstances, even if the will in favour of the petitioners is accepted to be genuine, they do not get any right, title or interest in the land in question as the entire land had been sold and this transaction, was found to be in

violation of the provisions contained in Section 157-A of the U.P. Zamindari Abolition and Land Reforms Act. The land, subject matter of this sale deed, has been ordered to vest in the State.

14. After executing the sale deed in favour of Harish Chandra Chhabra, no land remained with Ghasitu, which could have been bequeathed to the petitioner. The findings in this regard, returned in the impugned orders, not having been challenged, the same therefore cannot be interfered with.

15. The writ petition is therefore, devoid of merits and is liable to be dismissed.

16. In this connection, it would be further relevant to note that another writ petition being Writ Petition No.47236 of 2016 filed by Kunwar Pal, has already been dismissed by this Court vide order dated 19.10.2016, on identical grounds.

17. In view of the above, this writ petition fails and is dismissed.