
(2017) 04 AHC CK 0229
In the Allahabad High Court
Case No : 18320 of 2017

Akbar Hussain

APPELLANT

Vs

State Of U.P. Thru Secy. And 3 Others

RESPONDENT

Date of Decision : 28-04-2017

Acts Referred:

[Uttar Pradesh Land Revenue Act, 1901](#), [Section 28](#) - Maintenance of map and field book

Citation : (2017) 04 AHC CK 0229

Hon'ble Judges : Ram Surat Ram (Maurya)

Bench : Single Bench

Advocate : Brajesh Shukla, Arun Kumar Srivastava

Judgement

1. Heard Sri Brajesh Shukla for the petitioner, Standing Counsel for State of UP and Sri Rajesh Kumar holding brief of Sri Arun Kumar Srivastava for gram panchayat.
2. The writ petition has been filed for quashing the order of Additional Commissioner dated 17.11.2016 dismissing the application of the petitioner under Section 28 of UP Land Revenue Act, 1901 for correction of map and the order of Additional Commissioner dated 9.3.2017 dismissing the revision of the petitioner filed against the aforesaid order.
3. A perusal of the impugned order shows that petitioner has moved an application for correction of map of plot no. 204 m. It may be mentioned that total area of plot no. 204 is 0.466 hectare out of which an area of 0.243 hectare is recorded in the name of the petitioner and remaining area of 0.223 hectare was recorded as bajar land. In the application of the petitioner a report was called for. In the report dated 29.3.2014, Revenue Inspector has found that map has not been correctly prepared. When the matter was considered by Additional Collector, he by the impugned order dated 17.11.2016 held that all the persons belonging to plot no. 204 were not impleaded as party in the application. In case, the correction as submitted in the report dated 29.3.2014 is made out , then

rasta land will be affected on the spot which may create a dispute on the spot. On these findings he rejected the application. The petitioner challenged the aforesaid order in revision which has been dismissed by Additional Commissioner by order dated 9.3.2017 on the ground that plot in dispute is a banjar land of gaon samaj and there is no question of correction of map of this land. Hence this writ petition has been filed.

4. I have considered the arguments of the counsel for the parties and examined the record.

5. The reason assigned in the impugned order for rejecting the application of the petitioner for correction of map is quite illegal. So far as the finding that all the persons were not impleaded as party in the application, is concerned, part of area of the aforesaid plot i.e. 0.243 hectare was recorded in the name of the petitioner and remaining area was recorded as banjar land and gaon sabha as well as State of UP have been impleaded as party. There was no other person recorded over the plot in dispute as such finding in this respect is based upon conjuncture and surmises inasmuch as all the necessary party were impleaded in the application. In any case, if any other person was required to be heard then the Collector can issue notice to him and hear him.

6. So far as the finding of Additional Collector that rasta land is affected, is concerned, it is suffice to say that it was correction of map and not correction on the spot. Therefore, even if the rasta land is affected, then also map is liable to be corrected.

7. So far as the reason assigned by Additional Commissioner that it was a gaon sabha land therefore its map was not required to be corrected is concerned, it is also quite illegal. The map is prepared in respect of abadi , gaon sabha as well as agricultural land belonging to the tenure holder. The Collector used to maintain the map according to the provisions of Section 28 of UP Land Revenue Act, 1901. If any correction is required in the final map maintained by the Collector then he is duty bound to correct the incorrect map as the incorrect map could not be maintained forever. The map might be for abadi land, gaon sabha land and agricultural land. Thus the impugned orders were illegal and liable to be set aside.

8. In the results, the writ petition succeeds and is allowed. The orders of Additional Collector dated 17.11.2016 and Additional Commissioner dated 9.3.2017 are hereby quashed. The matter is remanded to the Additional Collector, who shall call for a report from Chief Tracer and after hearing the parties, decide the application for correction of map , afresh , on merit in accordance with law.