
(2015) 07 UK CK 0032
In the Uttarakhand High Court
Case No : W.P. (M/S) No. 166 of 2004

Alam

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 08-07-2015

Acts Referred:

Uttar Pradesh Land Revenue Act, 1901 — Section 201, 219, 40, 41, 43

Citation : (2015) 129 RD 56

Hon'ble Judges : Alok Singh, J.

Bench : Single Bench

Advocate : M.C. Kandpal and Chitrarth Kandpal, for the Appellant; R.C. Arya, Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Alok Singh, J.—Undisputedly, vide order dated 27.11.2000, petitioner, was held to be allottee of land of Gata No. 102 measuring 0.060 hectare, Village - Jai Nagar, Tahsil - Gadarpur, District - Udham Singh Nagar. Thereafter, vide order dated 18.4.2001, the Assistant Record Officer was pleased to modify the order dated 27.11.2000 to the effect that name of the petitioner would remain recorded on Gata No. 81/1M (Old No. 102) measuring 0.008 hectare only and rest of the land measuring 0.052 hectare would be recorded as banjar in favour of Gram Sabha and the petitioner be evicted from the land measuring 0.052 hectare under section 54(7) of the U.P. Land Revenue Act. Order dated 18.4.2001 was assailed by the petitioner in Appeal No. 52/22 of 2000-01 under section 210 of the U.P. Land Revenue Act, however, same was dismissed by the Additional Collector, vide order dated 25.9.2002. Revision No. 2/11 of 2002-03 came to be dismissed, vide impugned judgment dated 13.8.2003 by the Additional Commissioner, Kumaon Division. Feeling aggrieved, the petitioner has preferred present writ petition. Section 54 of the U.P. Land Revenue Act reads as under:

"(1) For revising the map and records under this Chapter the Record Officer

shall, subject to the provisions hereinafter contained, cause to be carried out survey, map correction, field to field Portal and test and verification of current annual register in accordance with the procedure prescribed.

(2) After the test and verification of the current annual register in accordance with sub-section (1), the Naib-Tahsildar shall correct clerical mistakes and errors, if any, in such register, and shall cause to be issued to the concerned tenure-holder and other persons interested, notices containing relevant extracts from the current annual register, and such other records as may be prescribed, showing their rights and liabilities in relation to land and mistakes and disputes discovered during the operations mentioned in the said sub-section.

(3) Any person to whom notice under sub-section (2) has been issued may, within twenty-one days of the receipt of notice, file before the Naib-Tahsildar objection in respect thereof disputing the correctness or nature of the entries in such records or extracts.

(4) Any person interested in the land may also file objection before the Naib-Tahsildar at any time before the dispute is settled in accordance with sub-section (5), or before one Assistant Records Officer, at any time before the objections are decided in accordance with sub-section (6).

(5) The Naib-Tahsildar shall--

(a) where objections are filed in accordance with sub-section (3) or sub-section (4) after hearing the parties concerned; and

(b) in any other case after making such inquiry as he may deem necessary; correct the mistake, and settle the dispute, by conciliation between the parties appearing before him, and pass orders on the basis of such conciliation.

(6) The record of all cases which cannot be disposed of by the Naib-Tahsildar by conciliation as required by sub-section (5), shall be forwarded to the Assistant Record Officer who shall dispose of the same, in accordance with the provisions of sections 40, 41 or 43, as the case may be, and where the dispute involves a question of title, he shall decide the same after a summary inquiry.

(7) Where after the summary inquiry under sub-section (6), the Assistant Record Officer is satisfied that the land in dispute belongs to the State Government or a local authority, he shall cause the person in unauthorised occupation of such land to be evicted and may, for that purpose use or cause to be used such force as may be necessary.

(8) Every order of the Assistant Record Officer--

(a) made under sub-section (6) shall, subject to the provisions of sections 210 and 219, be final;

(b) made under sub-section (7) shall subject to the result of any suit which the aggrieved person may file in any Court of competent jurisdiction, be final.]"

2. Bare perusal of section 54 of the Act would reveal that the Record Officer shall cause to be carried out survey, map correction, field to field Portal and test and verification of current annual register in accordance with the procedure prescribed. Sub-section (2) of section 54 would demonstrate that after the test and verification of the current annual register in accordance with sub-section (1), the Naib Tahsildar shall correct clerical mistakes and errors, if any, in such register, and shall cause to be issued to the concerned tenure-holder and other persons interested, notices containing relevant extracts from the current annual register and such other records as may be prescribed, showing their rights and liabilities in relation to land and mistakes and disputes discovered during the operations. Having received such notice under sub-section (2), tenure-holder or the noticee may file reply within twenty-one days disputing the proposed mistakes and corrections. Sub-section (5) of section 54 provides that after hearing the noticee and other interested person and after making such other inquiry, as Naib Tahsildar deems fit, shall settle the dispute, by conciliation between the parties, and pass orders on the basis of such conciliation. As per sub-section (6) of section 54, if the Naib Tahsildar is not able to decide the lis between the two parties by way of conciliation, he shall forward to the Assistant Record Officer his report and the Assistant Record Officer, as per the provisions of sections 40, 41 or 43, shall decide the dispute after summary inquiry and if during the summary inquiry it is found that notice is in unauthorized possession of any part of the property, he may pass order of dispossession of the noticee. As per sub-section (8) of section 54, any order made by the Assistant Record Officer deciding the question of title summarily shall be final, subject to the provisions of sections 201 and 219 of the U.P. Land Revenue Act, however, if order of dispossession is passed under sub-section (7) of section 54 it shall be final, subject to the outcome of the suit, which the aggrieved party may file before the competent Court for establishment of his title.

3. In the present case, no notice was admittedly issued to the petitioner, as required by sub-section (2) of section 54 annexing therewith extract of annual register and any such record showing the irregularities and mistakes therein. Perusal of the impugned orders would reveal that the Naib Tahsildar never tried to decide the dispute of the mistake by conciliation. Not only this, the Naib Tahsildar has not referred the dispute to the Assistant Record Officer, as required by sub-section (6) of section 54 and straightway the Assistant Record Officer has passed the order dated 18.4.2001 recalling the earlier order dated 27.11.2000.

4. There is another aspect of the matter.

5. Earlier order dated 27.11.2000 was passed by the Assistant Record Officer. Therefore, mistake, if any, committed in the order dated 27.11.2000 cannot be corrected by invoking the provision of section 54, as has been done in the present case. Order of the Assistant Record Officer dated 27.11.2000 could have been assailed before the higher revenue authority, which was not done in the present case. Consequently, impugned orders are totally without jurisdiction.

Therefore, petition succeeds and is hereby allowed. All the impugned orders are hereby quashed.