
(1997) 07 AHC CK 0149

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No, 7551 of 1978

Ananki Lal Goenka

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 03-07-1997

Acts Referred:

Citation : (1997) 07 AHC CK 0149

Hon'ble Judges : M.Katju, J

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned order of the Prescribed Authority dated 31378 Annexure9 to the writ petition.

2. 1 have heard Sri Sudhir Chandra, learned senior Counsel and Sri Manish Tiwari for the petitioner. None appeared for the State Government although the case has been taken up in the revised list.

3. The dispute in this petition is regarding plot No. 67 of village Khabrar, Tehsil and District Nainital, measuring 575 Nalis. This Plot belonged to Mr. Sharad who had sold it in 1961 to the petitioner. It appears that in August 1975 a notice was issued to the respondent No. 5 Mr. Sharad showing that the said land is a part of his holding. Respondent No. 5 contested the case and alleged that the said land was not part of his holding as he had sold it in 1961. However, it was rejected by the Ceiling Authority on 17176, but his appeal was allowed by the learned Additional District Judge II, dated 12377 vide Annexure 3 to the writ petition. The appellate authority had set aside the order of the prescribed authority and remanded the case to the prescribed authority to pass a fresh order in the light of observation given in the judgment dated 12377. The learned Additional District Judge had noted that the land had been sold to the petitioner but he had directed the Prescribed Authority to get the area demarcated and also for considering the choice indicated by the tenure holder. When the matter went to the Prescribed Authority on remand, it appears that the observation made by the Appellate Authority in its judgment dated 12377 were totally ignored and instead

the Prescribed Authority referred to some partition in 1973.

4. In my opinion, since the judgment dated 12377 had become final, the Prescribed Authority should have followed the judgment of the appellate authority, but instead he introduced fresh facts. He failed to follow the directions given by the appellate authority, which he could not do. Hence, I set aside the order dated 13178 Annexure9 and remand the matter to Prescribed Authority to pass a fresh order in the light of the judgment given by the Appellate Authority dated 12377. The writ petition is allowed. No order as to costs.

5. It is made clear that the Prescribed Authority before passing any final order will issued notice to the petitioner and shall give a hearing to the petitioner and other parties concerned.