

(2002) 04 AHC CK 0055
In the Allahabad High Court
Case No : C.M.W.P. No. 41317 of 1993

Asad Ahmad and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 10-04-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 AWC 2198 : (2002) 93 RD 525 : (2002) 2 UPLBEC 1951

Hon'ble Judges : Rakesh Tiwari, J;M. Katju, J

Bench : Division Bench

Advocate : D.K. Srivastava, for the Appellant;

Final Decision : Dismissed

Judgement

M. Katju, J.—By means of this writ petition, the petitioner prays for a writ of certiorari for quashing the order dated 3.2.1993 Annexure-11 to the writ petition.

2. Heard learned counsel for the petitioners and learned standing counsel.

3. It has been alleged in para 1 of the writ petition that the Land Management Committee of the village concerned passed a resolution after prior approval of the Sub-Divisional Officer dated 2.8.1991, allotting certain plots to the petitioners. The certificates have been given by the Chairman of the Land Management Committee to this effect, copies of which are Annexures-1 to 10 to the writ petition. It is alleged in para 3 of the writ petition that the petitioners have been cultivating the land since 1991. Subsequently, the petitioners came to know that the allotment had been cancelled on 3.2.1993 vide Annexure-11 to the writ petition. It is alleged in para 11 of the writ petition that the petitioners were not given opportunity of hearing. In para 12, it is stated that the Sub-Divisional Officer has no power to cancel the lease granted in favour of the petitioners.

4. In the Impugned order, it is stated that the land of the Forest Department had been allotted illegally to various persons. Mutation was done without approval of the Bhulekh Inspector. There is no order of approval dated 2.8.1991, on the

record. The Bhulekh Inspector has stated in his report that the Lekhpal deliberately recorded the land of the Forest as new parti land and an illegal mutation was done. The relevant records show that the land belonged to the Forest Department. This report of the Bhulekh Inspector was approved by the Naib Tahsildar on 29.1.1993 and by the Tahsildar on 30.1.1993, It is also mentioned in the impugned order that the entries of new parti was done in different ink and on a later date and is wrongly recorded as new parti.

5. In the impugned order, it has also been stated that the Lekhpal has made these allotments in a fraudulent manner and beyond his jurisdiction. Since there was farzi entries, it was not necessary to hear the allottees. The S.D.O. by means of the impugned order dated 3.2.1993 directed that the land in question be recorded as belonging to the Forest Department. We see no illegality in the impugned order. It is well-settled that fraud vitiates everything. The forest land cannot be converted into the land for allotment to persons in a fraudulent manner. In India much of our forests have been destroyed in such illegal ways. We are not inclined to exercise our jurisdiction in such a case. Writ jurisdiction is discretionary jurisdiction, and hence we are not inclined to interfere in such a fraud which was committed in the present case. Thus, there is no force in the writ petition.

6. The writ petition is dismissed.