
(1971) 12 AHC CK 0005
In the Allahabad High Court
Case No : C.M. Writ No. 1313 of 1970

Asharfi Lal

APPELLANT

Vs

The Board of Revenue and Others

RESPONDENT

Date of Decision : 15-12-1971

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 171

Citation : (1972) 42 AWR 84

Hon'ble Judges : R.L. Gulati, J

Bench : Single Bench

Advocate : D.P.S. Chauhan, for the Appellant;

Final Decision : Allowed

Judgement

R.L. Gulati, J.—There was one Baba Sarveshwar Dass, who was the Bhumidhar of the land in dispute situated in village Belwa Basaihya, Tahsil Biswan, district Sitapur. He died sometime in 1950. The fifth Respondent, Ram Shanker, who claims to be the Chela of Baba Sarveshwar Dass, got his name entered in the revenue papers and by a sale deed executed in the year 1963 he transferred the land in dispute in favour of Asharfi Lal, who is the Petitioner in this petition. The Gram Sabha of Belwa Basahiya, the fourth Respondent, filed a suit u/s 229-B/209 of the ZA and LR Act, challenging the sale deed in favour of the Petitioner. It was alleged in the plaint that Ram Shanker was not the legal heir of Baba Sarveshwar Dass and as such had no title to the land in dispute. It was further alleged that even if Ram Shanker had perfected his title through adverse possession, he could only be regarded as a sirdar and not a bhumidhar competent to transfer the land.

2. The suit was contested on the ground that Baba Sarveshwar Dass had executed a will in favour of Ram Shanker and in any case Ram Shanker being the Chela of Baba Sarveshwar Dass was entitled to succeed. The suit was decreed by the trial court and the judgment of the trial court was affirmed on appeal. The Petitioner filed a revision application before the Board of Revenue, the first

Respondent. The Board of Revenue dismissed the revision petition summarily. Hence this petition Under Article 226 of the Constitution.

3. The only question argued before me is that the Board of Revenue committed an error of law in holding that Ram Shanker, even though he was a chela of Baba Sarveshwar Dass, was not entitled to succeed to the property of the Baba u/s 171 of the UP ZA and LR Act. It is contended that the Chela of a Guru belonging to a religious order is like a spiritual son of the Guru and as such is his legal heir. Reliance was placed upon *Sital Das Vs. Sant Ram and Others*, . In para 20 the Supreme Court observed:

It is well known that entrance into a religious order generally operates as a civil death. The man who becomes an ascetic severs his connection with the members of his natural family and being adopted by his preceptor becomes, so to say, a spiritual son of the latter. The other disciples of his Guru are regarded as his brothers, while the co-disciples of his Guru are looked upon as uncles and in this way a spiritual family is established on the analogy of a natural family.

4. In *Hans Das v. Smt. Dalloo* 1969 ALJ 161 a learned Single Judge of this Court held that "succession to bhumidhari plots is governed by Section 171 of the UP ZA and LR Act. It is apparent that the descent of property from a Guru to his Chela is based upon the recognition of a Chela as a spiritual son and so a spiritual heir. But this a special rule applicable to persons who belong to religious orders or sects in which such precepts are customary".

5. Turning to the facts of the instant case, it is not denied that Ram Shanker was the Chela of Baba Sarveshwar Dass. It is also not denied that Baba Sarveshwar Dass belonged to a religious order. In fact no plea was taken in the suit filed by the Gaon Sabha that Baba Sarveshwar Dass was not the Guru belonging to a religious sect and that Ram Shanker was not his Chela. The Board of Revenue seems to have accepted the position that Baba Sarveshwar Dass was a Guru and Ram Shanker was his Chela and that the Guru belonged to a religious order, yet the Board of Revenue entertained the view that u/s 171 of the UP ZA and LR Act, a Chela could not be regarded as an heir for purposes of succession. This is what the Board observed:

I have considered the arguments. I am unable to agree with the learned Counsel. In my opinion, a Chela is not entitled to succeed u/s 171 of Act I of 1951 even if he has severed his wordly relations and entered into some religious order, his agricultural property would be succeeded by his blood relations and not by the Chela of the order in which he had been entered.

The view taken by the Board of Revenue is clearly opposed to the decision of the Supreme Court and the opinion expressed by this Court in the two cases referred to above. The order of the Board of Revenue therefore, cannot be upheld.

6. It appears that after the Board had given its decision, an application for review was made pointing out that the view taken by the Board was contrary to the view

taken by the Supreme Court as well as by this Court. But that application was also dismissed by the order dated November 25, 1969.

7. From the foregoing discussion it is clear that if Ram Shanker was the Chela of Baba Sarveshwar Das, who belonged to a religious order, Ram Shanker had rightly succeeded to the property of the Baba and he was competent to execute the sale deed in favour of the Petitioner.

8. No counter affidavit has been filed on behalf of any of the Respondents and as such the facts stated in the petition must be accepted. In fact there appears to have been no contest on facts when the matter reached before the Board of Revenue.

9. In these circumstances this petition must succeed and is allowed. The order of the Board of Revenue dated October 29, 1968 dismissing the Petitioner's second appeal as also its order dated November 25, 1969, dismissing the Petitioner's review application are quashed. In the circumstances, there will be no order as to costs.