

(2008) 01 AHC CK 0175

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 62443 of 2007

Babau Ram

APPELLANT

Vs

Addl.District Magistrate (L.R.), Jaunpur and others

RESPONDENT

Date of Decision : 07-01-2008

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 122B

Citation : (2008) 01 AHC CK 0175

Hon'ble Judges : Ashok Bhushan, J

Final Decision : Disposed Of

Judgement

Ashok Bhushan, J.—Heard Counsel for the petitioner and learned Standing Counsel. Sri Anuj Kumar has put in appearance on behalf of respondents No. 3 and 4. By consent of the parties, the writ petition is being finally disposed of without inviting counter affidavit.

2. By this writ petition, the petitioner has prayed for quashing the order passed by the Tahsildar dated 28th July, 2006, orders dated 25th May, 2007 and 23rd August, 2007 passed by the Additional District Magistrate.

3. Proceedings under section 122B of U.P. Zamindari Abolition and Land Reforms Act, 1950 were initiated against the petitioner by giving a notice. A report was submitted by the Lekhpal that petitioner has occupied Plot No. 155M, area 0.002, which is recorded as chak road. The petitioner appeared before the Tahsildar and filed objection and also prayed that spot inspection be made. He denied having occupied any portion of chak road. The Tahsildar passed an order on 28th July, 2006 directing for ejectment and recovery of Rs. 100/ as damages. The petitioner filed revision, which too was rejected. The review application thereafter was also rejected.

4. Petitioner's prayer for spot inspection has been specifically noted by the Tahsildar in his order dated 28th July, 2006 but no reason was given as to why the said prayer was refused when the petitioner's case in the objection was that

he has not occupied any portion of the chak road. Although the report of Lekhpal was otherwise, it was in the fitness of think that spot inspection ought to have been made and thereafter order for eviction, if the petitioner was found to be in occupation of any portion of chak road, was to be passed. In facts of the present case, the petitioners has made out a case for interference by this Court in the impugned order. The order passed by the Tahsildar as well as the Additional District Magistrate are set aside. The matter is remitted to the Tahsildar for passing appropriate order after getting the spot inspected by the competent revenue officer with notice to the petitioner. It is made clear that in case petitioner is found in occupation of any portion of the chak road, it will be open for the Tahsildar to issue direction for ejection of the petitioner. The Tahsildar shall expeditiously decide the matter preferably within a period of four months from the date of production of a certified copy of this order.

5. With the aforesaid observation, the writ petition is disposed of.