
(2021) 10 UK CK 0037

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1357 Of 2014

Babu Ram

APPELLANT

Vs

Arun Kumar And Others

RESPONDENT

Date of Decision : 04-10-2021

Acts Referred:

Uttar Pradesh Zamindari Abolition & Land Reforms Act, 1950 — Section 178, 178(1)

Citation : (2021) 10 UK CK 0037

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Petitioner has challenged the order dated 17.11.2004 passed by Assistant Collector, Ist Class, Roorkee in Partition Suit No. 11/2002-03 filed by respondent nos. 1 and 2. By the said order, it has been provided that since area of the holding sought to be partitioned is less than 1.260 hectares, therefore, instead of dividing the holding, it would be just and proper to sell it in terms of Section 178(1) of U.P. Zamindari Abolition & Land Reforms Act, 1950 and proceeds thereof be distributed amongst the co-tenure holders.

2. Learned counsel for the petitioner submits that Section 178 of U.P.Z.A. & L.R. Act, 1950 was deleted by U.P. Act No. 27 of 2004 with effect from 23.08.2004, therefore, after deletion of the said provision, impugned order could not have been passed on 17.11.2004, by invoking Section 178 (1) of the said Act.

3. Learned Standing Counsel, however submits that amendment, if any, made by State of U.P. in U.P. Zamindari & Land Reforms Act, 1950 after State reorganisation will not be applicable in Uttarakhand. He further submits that in State of Uttarakhand, Section 178 of the Act was deleted by Uttarakhand Act No. 12 of 2006 only with effect from 17.10.2006 and it was in the Statute book on 17.11.2004 when the impugned order was passed.

4. After arguing for a while, learned counsel for the petitioner sought permission to withdraw the writ petition with liberty to move appropriate application on the strength of Uttarakhand Act No. 12 of 2006, whereby provision contained in Section 178 of U.P.Z.A. and L.R. Act, 1950 was deleted.

5. The writ petition is dismissed as withdrawn with liberty as above.