

(2009) 09 AHC CK 0129

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 40660 of 1993

Badan Singh

APPELLANT

Vs

Board of Revenue, Allahabad & Ors.

RESPONDENT

Date of Decision : 01-09-2009

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 122C(6), 333

Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 — Rule 115P

Citation : (2009) 09 AHC CK 0129

Hon'ble Judges : Vikram Nath, J

Final Decision : Allowed

Judgement

Vikram Nath, J.

Heard learned counsel for the petitioner and learned Standing counsel for the State, respondents.

Despite notices having been sent to respondent nos. 4 and 5 in the year 1997, no one has appeared on their behalf. Office has submitted a report that neither the undelivered cover nor the acknowledgment card has been received back.

Service is deemed to be sufficient upon the respondent nos. 4 and 5.

The revision filed by the petitioner before the Additional Commissioner, under Section 333 of the U. P. Z. A. & L. R. Act, was dismissed on the ground that it is not maintainable as it arises out of proceedings under Section 122C6 of the U.P. Z. A. & L. R. Act and Rule 115P of the Rules framed under the Act. The second revision filed by the petitioner has also been dismissed by the Board of Revenue. These orders have been assailed in the present writ petition. Learned counsel for the petitioner has relied upon the judgment of this Court in the case of Wahajuddin Vs. Board of Revenue, U. P. AT Allahabad and others reported in 2002 (93) 186 wherein this Court has held that revision would be maintainable against the order passed in proceedings under Rule 115P of the Rules. This

petition therefore, deserves to be allowed. As the Additional Commissioner has passed two line order dismissing the revision on the ground of maintainability, the same is liable to be quashed.

Accordingly, the writ petition succeeds and is allowed.

The order passed by the Board of Revenue and the Additional Commissioner are hereby quashed and the matter is remitted to the Additional Commissioner for deciding the same on merits, in accordance with law.

In the facts and circumstances of the case there shall be no order as to costs.