
(2013) 07 AHC CK 0038

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 38899 of 2013

Bhagwati

APPELLANT

Vs

Additional Commissioner (Administration) and Others

RESPONDENT

Date of Decision : 19-07-2013

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 126

Citation : (2013) 7 ADJ 123 : (2014) 3 AWC 2329 : (2013) 120 RD 587

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Advocate : Amaresh Sinha, for the Appellant; Tariq Maqbool Khan, Rajesh Kumar and Dinesh Kumar Yadav, for the Respondent

Judgement

A.P. Sahi, J.—Heard learned counsel for the petitioner, learned Standing Counsel Sri Rajesh Kumar for the Respondent Nos. 1, 2 and 4, Sri Tariq Maqbool Khan for the respondent No. 3 and Sri Dinesh Kumar Yadav for the respondent No. 5. The challenge raised in this petition is that the order passed by the Additional Commissioner in revision is without jurisdiction inasmuch as no revision was maintainable against the interim order passed by the Sub-Divisional Officer in relation to a lease for plantation of trees. Sri Amresh Sinha submits that in view of the decision in the case of Nanak Chand and others Vs. State of U.P. and others, , the remedy of a revision was a misconceived approach and an appeal could have been filed before the Collector in the event any final order was passed by the Sub-Divisional Officer.

2. Learned Standing Counsel Sri Rajesh Kumar has produced a copy of the Government Order dated 30.12.1985 which has been issued in exercise of powers u/s 126 of the U.P. Zamindari Abolition & Land Reforms Act, 1950. According to the said Government Order, allotment of lease can be made for the purpose of plantation of trees in terms thereof and clause 19 of the said Government Order provides that the Sub-Divisional Officer can cancel the lease in the event there is any violation of the terms and conditions or is otherwise not

in accordance with the provisions of the Government Order.

3. A further Appeal is provided for against such cancellation before the Collector.

4. In the instant case, Sri Dinesh Kumar Yadav, who has appeared for the respondent No. 5, does not dispute the fact that the lease is for the purpose of plantation. In such circumstances and having heard learned counsel for the parties, there cannot be any doubt about the procedure that has to be applied in such matters as provided under the Government Order dated 30.12.1985. Clause-19 of the said Government Order is reproduced here under:

5. A perusal of the said clause leaves no room for doubt that the Sub-Divisional Officer has the authority to proceed to cancel a lease and the lease holder, if his lease is cancelled, has a right of appeal. In the aforesaid circumstances, the order passed by the learned Additional Commissioner appears to be patently without jurisdiction. The writ petition is allowed and the order dated 4.4.2013 is set aside leaving it open to the respondent No. 5 to prefer an appeal after final orders are passed by the Sub-Divisional Officer in accordance with law. The Sub-Divisional Officer namely the respondent No. 2 shall proceed to finalize the matter pending before him as expeditiously as possible preferably within 3 months of the date of production of a certified copy of this order keeping in view the powers conferred on him under the Government Order dated 30.12.1985.