
(1996) 09 AHC CK 0003
In the Allahabad High Court
Case No : C.M.W.P. No. 28648 of 1996

Bhurey Lal

APPELLANT

Vs

District Judge and Others

RESPONDENT

Date of Decision : 04-09-1996

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 49, 5

Citation : (1997) RD 149

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : V.P. Varshney, for the Appellant; S.C. and Janardan Sahai, for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned judgment dated 19.8.1996, Annexure-4 to the writ petition by which the suit was held to be abated.

2. I have heard Counsel for the parties and find no merit in this writ petition. The question in the case is whether the suit was liable to abate u/s 5/49 of the Consolidation of Holdings Act. The facts of the case are that the Petitioner filed a suit in the civil Court praying for cancellation of a sale-deed. True copy of the plaint is Annexure-2 to the writ petition. The allegations in the plaint are that a farzi sale-deed was executed by a person claiming to be Rajendra, although Rajendra had died. Hence in substance, the allegation in the plaint was that an imposter had executed the sale-deed. It is settled law that Jurisdiction depends on the allegations in the plaint. According to the plaint allegations, the sale-deed was wholly void since an imposter had executed it, and was not merely voidable.

3. Learned Counsel for the Petitioner has relied on a decision of this Court Ram Padarath v. IInd Additional District Judge 1989 ALJ 19 . In this very case, it has been held on page 23 that the jurisdiction of the Consolidation authorities is

wider than that of the civil and revenue Courts. The Full Bench relied on the decision of the Supreme Court in Gorakh Nath Dube Vs. Hari Narain Singh and Others, , where a distinction has been drawn between void and voidable sale-deeds. A void sale-deed can be ignored by the consolidation authorities. Hence, since according to the allegations in the plaint, the sale-deed was void, the same could be ignored and hence the consolidation authorities can decide the dispute.

4. Thus, there is no infirmity in the impugned judgment. The writ petition is dismissed.