

(2017) 04 AHC CK 0219
In the Allahabad High Court
Case No : 16948 of 2017

Brijesh Kumar & Others

APPELLANT

Vs

Deputy Director Of Consolidation & Others

RESPONDENT

Date of Decision : 26-04-2017

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs
Uttar Pradesh Consolidation of Holdings Act, 1953, Section 48, Section 9A -
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950,
Section 171

Citation : (2017) 04 AHC CK 0219

Hon'ble Judges : Suneet Kumar

Bench : Single Bench

Advocate : Bhaju Ram Prasad Sharma, Ravindra Kumar, R. B. Tripathi

Judgement

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State-respondent and Sri R.B. Tripathi for the respondent nos. 4 to 13. By means of the instant petition, petitioner is assailing the order dated 7 December 2016 passed by the first respondent, Deputy Director of Consolidation, Gyanpur, District Sant Ravi Das Nagar "Bhadohi", in revision No. 98/42 of 2016-17 under Section 48 of Uttar Pradesh Consolidation of Holdings Act, 1953, arising from the order dated 2 February 1991 passed by the third respondent, Consolidation Officer in Case No. 257 of 1974 under Section 9A(2) of U.P.C.H. Act (Hriday Narayan and others Versus Dulari and others).

2. The revisional authority has affirmed the orders passed by the subordinate consolidation authorities. The petitioners in respect of the disputed property had set up a case that they are transferee of the disputed plots from Mata Prasad and Lal Bahadur vide sale deed dated 23 May 1970 and 25 August 1970. Mata Prasad and Lal Bahadur are the nephew (Bhanje) of Ajmer and Kuber who were unmarried and died issue less, therefore, are entitled to succeed in terms of

section 171 of the U.P.Z.A. & L.R. Act, petitioners being transferee were recorded in the revenue record pursuant to the sale deed executed by Mata Prasad.

3. It was further contended that Dulari is neither wife of Kuber and nor Majiya is daughter of Ajmer, therefore, the dispute primarily was between Mata Prasad, Dulari and Majiya as to who is entitled to succeed the disputed property which was recorded in the name of Kuber and Ajmer as co-owners.

4. The dispute has a chequered history since 1955. The matter was adjudicated by the consolidation officer, subsequently, in appeal it was remanded, finally on 2 February 1991 the Consolidation Officer accepted the objection of Dulari and Majiya holding to be the wife of Kuber and daughter of Ajmer, respectively, thus, rejecting the claim set up by Mata Prasad being nephew who had no legal right or title in the disputed property, therefore, the sale deed executed in favour of the ancestors of the petitioners being void document their names were directed to be expunged and name of Dulari and Majiya was recorded. The petitioners preferred an appeal which was dismissed, the revision filed against the appellate order also met to the same fate.

5. It is urged by the learned counsel for the petitioner that Mata Prasad and Lal Bahadur are the nephew (Bhanje) of Ajmer and Kuber who were unmarried and died issue less, therefore, are entitled to succeed in terms of section 171 of the U.P.Z.A. & L.R. Act, petitioners being transferee were recorded in the revenue record pursuant to the sale deed executed by Mata Prasad.

6. It is not being disputed that the issue that is being sought to be pressed in writ jurisdiction was raised before the consolidation authorities and was decided upon perusal of documents and evidence produced before the authorities. The revisional court would note that the extract of the family register produced would clearly reflect that Dulari was the wife of Kuber and Majiya the daughter of Ajmer and this piece of evidence was unrebutted by the petitioners. The concurrent finding of fact recorded by the consolidation authorities pertaining to right and title in the disputed property cannot be disturbed in writ jurisdiction unless perversity is writ large.

7. Learned counsel for the petitioner would reagitate the factual controversy in respect of Dulari and Majiya not being the wife and daughter of Kuber and Ajmer, respectively, which I am not inclined to interfere under Article 226 of the Constitution of India for the reason that learned counsel for the petitioner has failed to point out any perversity in the concurrent finding of fact recorded by the consolidation authorities. The writ petition being devoid of merit is accordingly dismissed. It is clarified that no other ground or point was pressed by the learned counsel for the petitioner. No cost.