
(2014) 07 AHC CK 0093
In the Allahabad High Court
Case No : Writ-B No. 31667 of 2014

Chhotey Lal

APPELLANT

Vs

D.D.C.

RESPONDENT

Date of Decision : 02-07-2014

Acts Referred:

Citation : (2014) 124 RD 360

Hon'ble Judges : Ran Vijai Singh, J

Bench : Single Bench

Advocate : Vivek Kumar Tripathi, Advocate for the Appellant; Brijesh Chandra Naik, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Ran Vijai Singh, J.—Heard Sri R.K. Pandey, holding brief of Sri Vivek Kumar Tripathi, learned Counsel for the petitioner, learned Standing Counsel appearing for the State-respondents and Sri Brijesh Chandra Naik, learned Counsel for respondent No. 3. Through this writ petition, the petitioner has prayed for issuing a writ of certiorari quashing the impugned orders dated 19.3.2014 passed by the Deputy Director of Consolidation, Varanasi in revision No. 1099/579/848 (Chhotelal v. State) and order dated 23.12.2010 passed by the Consolidation Officer, Badagaon, Varanasi in case No. 109 (Ram Khelawan v. Sugiya). Vide order dated 23.12.2010, the substitution application filed by respondent No. 3 was allowed, whereas by the subsequent order revision filed against the order dated 23.12.2010 has been dismissed.

2. Initial dispute relates to the part of agricultural holding of one late Sugiya, who, according to the petitioner, had executed a sale-deed on 13.2.1978 in favour of four persons, including the petitioner. It is contended that on the strength of the aforesaid sale-deed, the petitioner's name was also mutated on 17.5.1978. Challenging the order dated 17.5.1978, late Subya filed appeal before the Settlement Officer of Consolidation. The said appeal was dismissed. Against that order, revision was filed, which was allowed and the matter was remanded

before the Consolidation Officer. In the pending proceeding, an objection was filed by respondent No. 3, claiming right over the land in dispute on the basis of gift deed executed by late Sugiya on 17.3.1978. Pending aforesaid proceedings, in the submissions of Sri Naik, Sugiya died on 20.6.1982 and respondent No. 3 filed substitution application on 6.7.1982 praying for substitution of the legal heirs and representatives of late Sugiya.

3. It is submitted by Sri Naik that late Sugiya had also lodged an FIR against the petitioner on 4.6.1978. The criminal case is still pending against the petitioner. It has also been submitted that in the case, late Sugiya appeared and her statement as well as statement of the marginal witnesses to the gift deed were also recorded. It appears, thereafter, the petitioner has filed an application seeking cross-examination of late Sugiya. It also transpires that one late Ram Lakhan, in whose favour the alleged sale-deed was executed, had also died and the petitioner filed an application seeking substitution in place of Ram Lakhan. Substitution applications filed by the petitioner as well as respondent No. 3 were allowed by the Consolidation Officer vide order dated 23.12.2010. Challenging the part of order by which other side substituted was allowed, the petitioner filed revision, which has been dismissed taking note of the fact that by allowing substitution application, the merit of the case will be unaffected.

4. This Court in the case of Smt. Shanti Devi v. DDC and others" has held that allowing of substitution application only confers the right to contest the proceeding and any observation made this " way or that way touching the merit while allowing the substitution application will have no effect while deciding the case on merit. In view of the settled position of law, I do not find any error in the impugned orders passed by the Courts below. The writ petition is dismissed.