
(2003) 05 AHC CK 0199
In the Allahabad High Court
Case No : C.M.W.P. No. 21490 of 1988

Girish Chandra

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-05-2003

Acts Referred:

Uttar Pradesh Bhoodan Yagna Act, 1952 — Section 14

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 198(4)

Citation : (2003) 6 AWC 5563

Hon'ble Judges : R.S. Tripathi, J;M. Katju, J

Bench : Division Bench

Advocate : B.S. Verma and S.K. Pandey, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition has been filed for a writ of certiorari for quashing the impugned order dated 22.7.1978 Annexure-1 to the writ petition and for a mandamus directing the Respondents not to interfere with the possession of the Petitioner over the land in dispute.

2. In this case on 24.7.1990, the Court granted the standing counsel one month's time to file counter-affidavit. Thereafter on 8.11.1990, one month further time was granted to file counter-affidavit but no counter-affidavit has been filed so far. Hence, we treat the allegations in the petition to be correct.

3. It is alleged in paragraph 3 of the writ petition that the Petitioner was a landless agricultural labourer having no land either in his own name or in the name of his dependents and as such, the Respondent No. 3 allotted four plots of land of 9.5 bighas u/s 14 of the U.P. Bhoodan Yagya Act, 1952 and thereafter the Petitioner was put in possession over the same.

4. In paragraph 10 of the petition it is stated that notice was given to the Petitioner u/s 198 (4) of the U.P. Zamindari Abolition and Land Reforms Act to which the Petitioner sent a reply. Thereafter, the impugned order was passed

cancelling the grant of lease on 22.7.1978 vide Annexure-1 to the writ petition. Aggrieved, this petition has been filed.

5. In this case, by an interim order of this Court dated 24.7.1990, operation of the impugned order had been stayed and hence, the Petitioner has continued in possession over the land. However, a perusal of the impugned order shows that the Petitioner's patta has been cancelled on the ground that his father has about 34 bighas land and hence, the Petitioner was not eligible.

6. The allegation in paragraph 3 of the petition that the Petitioner has no land has not been rebutted as no counter-affidavit has been filed.

7. In Smt. Mubarukunisha Vs. The Additional District Magistrate (Rural) and Others, , a Division Bench of this Court held that the land held by an individual alone has to be taken into account, and not the land held by his spouse or other family members. This Division Bench decision has been followed by another Division Bench decision of this Court in Civil Misc. Writ Petition No. 9530 of 1978 Satish Chandra v. State of U.P. decided on 24.7.1991.

8. Following the aforesaid decisions, this petition is allowed. The impugned order dated 22.7.1978 is quashed. No order as to costs.