
(2010) 08 AHC CK 0111
In the Allahabad High Court
Case No : C.M.W.P. No. 44858 of 2003

Hansnath

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 03-08-2010

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 167, 168A

Citation : (2010) 6 AWC 5622

Hon'ble Judges : Sanjay Misra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sanjay Misra, J.—Heard Sri Khurshid Alam learned Counsel for the Petitioner and Sri Virendra Chaubey learned Counsel for the contesting Respondent Nos. 3 and 4.

2. The Petitioner is aggrieved by the order dated 21.1.2003 and 9.6.2003 passed by the Respondent No. 2 Sub Divisional Magistrate, Belthara Road, district Ballia and further prays for issue of a writ in the nature of mandamus directing the Respondent No. 2 to correct the entry in the revenue record by deleting the name of Respondent No. 3 namely Mewa Lal and Respondent No. 4 Mst. Ramawati.

3. According to learned Counsel for the Petitioner the Petitioner's father namely Late Sri Munni Lal executed a sale deed in favour of Respondent Nos. 3 and 4 in violation of the provisions of the U.P.Z.A. and L.R. Act inasmuch as it was a fragmentation of the holding. He states that the sale deed being null and void did not confer right, title or interest on Respondent Nos. 3 and 4 and therefore the mutation entry made in the revenue records on the basis of such a sale deed is clearly illegal and requires to be set aside more particularly because the Respondent Nos. 3 and 4 are attempting to evict the Petitioner from the land in question.

4. Sri Virendra Chaubey learned Counsel for the Respondent Nos. 3 and 4 while referring to his counter-affidavit has submitted that when the application of Respondent Nos. 3 and 4 was rejected by the mutation authorities on the ground that it was hit by Section 168A of the U.P.Z.A. and L.R. Act and directions were issued by the mutation authorities u/s 167 of the Act for initiating action against the Respondent Nos. 3 and 4 they filed a Writ Petition No. 17670 of 2003 wherein (Hansnath) the Petitioner herein was arrayed as Respondent No. 4 and this Court by the judgment dated 25.4.2003 had refused to interfere in the mutation entries but had found that the mutation authorities could not issue any direction for appropriate action against the Respondent Nos. 3 and 4 u/s 167 of the U.P.Z.A. and L.R. Act and hence such direction was quashed by the writ court.

5. Sri Chaubey states that thereafter the name of the Respondent Nos. 3 and 4 has been entered in the revenue records by order of mutation and this writ petition cannot be maintained since a mutation entry in the revenue record does not confer or extinguish title on any person and therefore this writ petition against and order of mutation cannot be maintained.

6. Having considered the submission of learned Counsel for the parties and perused the affidavits exchanged by them the impugned orders are orders directing entry of the name of Respondent Nos. 3 and 4 on the basis of the sale deed in the revenue record. It is clearly a mutation of the name in the revenue record and such proceedings being summary in nature they do not confer or extinguish title on any person hence it cannot be challenged in a writ petition since no legal right of the Petitioner or the Respondents is affected in any manner whatsoever. The Respondent Nos. 3 and 4 have claimed title by virtue of the sale deed executed by the father of the Petitioner. The sale deed has not been set aside nor it has been declared null and void till date and hence the mutation entry has been made in the revenue record.

7. For the aforesaid reason no interference is required in the impugned orders of mutation by this Court in this writ petition for the reason that it has neither extinguished nor conferred any title on the Petitioner or the Respondent Nos. 3 and 4. Such entry made due to transfer by sale deed is mainly for the purpose of realization of revenue from the person whose name is entered or to show possession of the person at that time. The impugned orders dated 21.1.2003 and 9.6.2003 passed by the Respondent No. 2 Sub Divisional Magistrate, Belthara Road, District Ballia require no interference.

8. The writ petition is dismissed.

No order is passed as to costs.