
(2016) 07 AHC CK 0096
In the Allahabad High Court
Case No : Writ-B No. 33195 of 2016

Hoshyar Singh @ Hemu Singh	Vs	APPELLANT
Board of Revenue Lucknow		RESPONDENT

Date of Decision : 21-07-2016

Acts Referred:

Uttar Pradesh Land Revenue Act, 1901 — Section 192, 34

Citation : (2016) 132 RD 422

Hon'ble Judges : Ram Surat Ram (Maurya), J.

Bench : Single Bench

Advocate : Krishna Mohan Garg, Counsel, for the Appellant; C.S.C, for the Respondent

Final Decision : Allowed

Judgement

Ram Surat Ram (Maurya), J.— Heard Sri Krishna Mohan Garg for the petitioner and Sri S.C. Verma for the contesting respondents.

2. The writ petition has been filed against the orders of Tehsildar dated 4.12.2015 and Board of Revenue, UP dated 8.6.2016 passed in the mutation proceeding under UP Land Revenue Act, 1901.

3. The dispute was in respect of inheritance of properties of Smt. Seeta Devi. Hoshyar Singh, the petitioner and Smt. Anjali Devi, respondent-13 derive their title on the basis of an unregistered Will dated 25.12.1998 allegedly executed by Smt. Seeta Devi. On the other hand Gajendra Singh, Narendra Kumar Singh and Surendra Singh are claiming themselves to be son of Smt. Seeta Devi and alleged that Will is fabricated inasmuch as Seeta Devi died on 26.1.1999 intestate. Name of Gajendra Singh and others were mutated in the khatauni on the basis of report under P.A. 11 A on 1.8.1999. Subsequently they transferred the land in dispute to the respondents-7 to 11 in the writ petition. On the basis of transfer deed respondents-7 to 11 applied for mutation of their names. The mutation case was registered as Case No. T20141316011464 (Pramod Kumar v.

Rajbala and others) and Case No. T 20141316011463 (Varun Pratap Singh and others v. Naresh Kumar and others). The Tehsildar by the order dated 4.12.2015 directed for mutation of names of the respondent 7 to 11. The revision filed by the petitioner against the aforesaid order, has been dismissed by Board of Revenue by order dated 8.6.2016.

4. In the meantime, on the basis of Will dated 25.12.1998, Hoshyar Singh and Smt. Anjali Devi filed an application under Section 34 (registered as Case No. 249 of 1999) for mutation of their names on the basis of Will. The Tehsildar by the order dated 9.8.2000 allowed the mutation application. Thereafter Gajendra Singh, one of the son of Smt. Seeta Devi, filed an application for recall of the order in the year 2015. The recall application was allowed on 1.5.2015 and the order dated 9.8.2000 was recalled. Thereafter a revision was filed by the petitioner as well as Smt. Anjali Devi, which was pending before Board of Revenue. In the meantime, the Tehsildar allowed the mutation application of respondents-7 to 11 on 4.12.2015 and directed for recording their names over the land in dispute. The petitioner challenged the aforesaid order in another revision before Board of Revenue, which has been dismissed by the impugned order dated 8.6.2016.

5. The argument of the counsel for the petitioner is that although names of sons of Smt. Seeta Devi were mutated on the basis of report of PA 11 A but this order was superseded by the order of Tehsildar dated 9.8.2000. Therefore, the order relating to mutation of names of sons of Seeta Devi was no more and the case relating to restoration application filed by sons of Smt. Seeta Devi was pending. In the meantime, the transferees filed an application for mutation of their names which has been allowed on 4.12.2015. Although on that date the restoration application was allowed and revision was filed, at the most it can be said that mutation application filed by legatee were pending. Therefore both the cases ought to have been decided by consolidating them. As one case was between the sons and legatee and other case was between the legatee and transferees of the sons of Seeta Devi. But the mutation application of the transferees has been allowed. Therefore dispute relating to mutation of names of legatee has become infructuous.

6. I have considered the arguments of the counsel for the parties.

7. In the matter relating to dispute between the legatee and sons Writ B No. 33161 of 2016 has been filed which has been disposed of by this Court directing to the Tehsildar to decide the mutation application after hearing the 3 parties within a period of six months. Therefore it is appropriate that mutation application relating to the transferees of sons of Smt. Seeta Devi be also decided along with that case.

8. In the results, the writ petition succeeds and is allowed. The orders of Tehsildar dated 4.12.2015 and Board of Revenue dated 8.6.2016 are set aside. The matter is remanded to the Tehsildar who shall consolidate all the three cases

together in view of Section 192 A of UP Land Revenue Act, 1901 and after giving opportunity of evidence as well as after hearing the parties decide the case along with the earlier cases within a period of six months.

9. Both the parties are appearing before this Court, they may appear before Tehsildar on 2.8.2016. Thereafter the Tehsildar shall fix a date for hearing and decide the cases within aforesaid period.