

(2006) 07 UK CK 0024

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 4940 of 2001

Iqbal Singh Dillon

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 19-07-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 17(1), 4, 6
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 131, 131B, 131B(1), 229B

Citation : (2007) 1 UC 538

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Advocate : Vijay Bhatt, for the Appellant; Learned Standing Counsel and Sandeep Tandon, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Verma, J.—By means of this writ petition, the Petitioners have prayed for issue a writ, order or direction in the nature of certiorari quashing the order dated 26-12-1990 passed by the Board of Revenue in Second Appeal No. 65 of 1986-87 Iqbal Singh Dhillon v. State whereby the appeal was allowed and the learned Board of Revenue decreed the suit of the Plaintiff-Petitioner with the exception that he shall have no right to transfer the land so long as the Notifications under Sections 4, 6 and 17 of the Land Acquisition Act (for short the Act) are not withdrawn.

2. Relevant facts are that the Plaintiff-Petitioner appears to have migrated to India in 1947 from Pakistan after partition of the country. He entered into possession of the suit land some time in 1949-53 and started cultivation over it. The State of U.P. vide Notification u/s 6 read with Section 17(1) of the Act directed the Collector to take possession of the land for public purpose. Subsequently, the State Government by another letter No. 361 of 1954 transferred the above land and some other land for management to Notified Area

Committee Rudrapur. In the meantime, proceedings for eviction of the Plaintiff were drawn up under the U.P. Government Land Eviction and Rent Recovery Act, 1953 and the Case No. 105 of 1956 was decided in favour of the Petitioner-Plaintiff by order dated 30-7-1957 holding that he shall not be evicted from this land until and unless he is given land in exchange of the land in dispute. The record shows that subsequently, fresh proceedings for eviction of the Plaintiff were drawn in the court of Prescribed/Public Authority and the proceedings ended in his favour vide order dated 8-6-1962. Ultimately, the Plaintiff brought the present suit u/s 229-B of the U.P.Z.A. and L.R. Act and prayed that he be declared Sirdar on the ground of his continuous possession prior to the year 1950 and that he acquired hereditary tenancy rights under the UP Tenancy Act and by operation of law he became Sirdar on 1-7-1969. The suit was resisted by the State as well as Municipal Board on the ground that the land had been acquired under the Act and was of public utility, therefore, no rights could vest in the Plaintiff.

3. The Trial Court dismissed the suit and in appeal being preferred by the Plaintiff-Petitioner, the Commissioner did not find favour with the Plaintiff and dismissed the appeal. It was on the Second Appeal having been preferred by the Petitioner, the impugned judgments of the two courts were set aside and decree was passed in favour of the Petitioner as mentioned above.

4. The only prayer made before this Court by the learned Counsel for the Petitioner is that the learned Board of Revenue has given non-transferable bhumidhar rights to the Petitioner, while he was entitled to be Bhumidhar with transferable rights in view of the amendment u/s 131 of the Z.A. and L.R. Act and by virtue of U.P. Act 19 of 1995. Section 131-B was inserted w.e.f. January 14, 1995. It may be mentioned that the order impugned was passed by the Board of Revenue on 26-12-1990, while the amendment came into force with effect from 14-1-1995. Relevant extract of Section 131-B of the said Act reads as under:

131-B. Bhumidhar with non-transferable rights to become bhumidhar with transferable rights after ten years.- (1) Every person who was a bhumidhar with non-transferable rights immediately before the commencement of the Uttar Pradesh Zamindari Abolition and Land Reforms (Amendment) Act, 1995 and had been such bhumidhar for a period of ten years or more, shall become a bhumidhar with transferable rights on such commencement.

(2) Every person who is a bhumidhar with non-transferable rights on the commencement referred to in Sub-section (1), or becomes a bhumidhar with non-transferable rights after such commencement, shall become bhumidhar with transferable rights on the expiry of period of ten years from his becoming a bhumidhar with non-transferable rights.

5. In view of the amendment aforesaid, the Petitioner has now acquired his title as

Bhumidhar with transferable rights. Accordingly, the writ petition is liable to be disposed of.

6. With the above observations, the writ petition is disposed of finally.