
(2001) 07 AHC CK 0083

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition Nos. 11749 and 13584 of 1996

Jagannath Prasad; Ramesh Chandra and Others

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 05-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 07 AHC CK 0083

Hon'ble Judges : Anjani Kumar, J

Final Decision : Allowed

Judgement

Anjani Kumar, J.—Since the above mentioned two writ petitions filed by the petitioners (tenure holders) relate to the same facts and raise the same question of law, hence the same arc being decided by this common judgment.

2. By means of this petition, the petitioner has challenged the order dated 11121995 passed by the Additional Commissioner Allahabad Region, Allahabad, whereby, Additional Commissioner has dismissed the appeal filed by the petitioner against the order dated 31st January, 1994 and order dated 23rd September, 1995. The order dated 31st January, 1994 proceeds to decide the proceedings under the provision of U.P. Imposition of Ceiling and Land Holdings Act and the land of the petitioners (tenure holders) were declared to be the surplus land. The order dated 23rd September, 1995 whereby application of the petitioner (tenure holder) for recalling the order dated 31st January, 1994 has been rejected on the ground that the same has been filed after considerable delay. Reason for rejection to recall the order dated 31st January, 1994 was that the same has been filed beyond time. The petitioner has filed an affidavit giving reasons but yet prescribed authority has not adjudicated upon as to whether this reason is sufficient or not and if not sufficient why.

3. Apart from the above proceeding earlier, the proceedings went up to the level of the appellate authority and the appellate authority by this order dated 3rd February, 1981 remanded back the matter to the Prescribed Authority. No

proceedings appears to be initiated and taken pursuant to the order of the appellate authority dated 3rd February, 1981 nor the order dated 3rd February, 1981 is set aside by the appellate authority or Court. In this view of matter also there was no justification for passing any order,

4. Learned Standing Counsel also argued that the order of the appellate authority seems to be justified as the authority has not committed any mistake in refusing to recall the order.

5. To my mind when the proceeding came to the level of the appellate authority and the appellate authority by order dated 3 21981 directed that the matter be decided afresh, the authority should have proceeded from that level and there was no justification or necessity for issuing any other notice or for passing the orders dated 3111994 and thereafter the order dated 2391995.

6. Apart from the above it is in the interest of justice that land of the petitioner (tenure holder) should be declared surplus only after giving opportunity of hearing to the petitioner.

7. In this view of the matter, it is in the interest of justice that the order of the appellate authority dated 11121999, the order of Prescribed Authority dated 31st January, 1994 and 23rd Septembcr,1995 be quashed. The matter be decided afresh in accordance with law and as per direction issued by order of appellate authority dated 3rd February, 1981. Since the proceedings are pending for a long lime, it is directed to the prescribed authority to decide the matter expeditiously, preferably within 3 months from the dale of receipt of a certified copy of this order.

8. With the aforesaid directions the writ petitions arc allowed and the order dated 321981, 2391995 and 3111994 are hereby quashed. Petitions allowed.