
(2011) 09 AHC CK 0102
In the Allahabad High Court
Case No : C.M.W.P. No. 53959 of 2011

Jile Singh and others

APPELLANT

Vs

Addl. Commissioner (Admin.), Meerut and others

RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 211A, 212, 33, 39

Citation : (2011) 6 AWC 5954 : (2011) 114 RD 567

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri Avnish Kumar Srivastava learned counsel for the petitioner.

2. This matter had been adjourned on two occasions to enable the learned counsel for the petitioner to assist the Court as to under which provision a declaration was granted to the petitioner on which reliance is being placed through Annexures-1 and 2. The petitioner claims to have been declared a sirdar on deposit of ` 10 times of the hereditary rate of rent. The orders are of 1958 and 1963.

3. On a query by the Court learned counsel for the petitioner has produced the old statutory provision of Section 211A which has now been deleted. The same is quoted herein-under :

211A. Summary procedure for ejectment of person occupying land without title.-- (1) Where on an application from the Chairman, Member or Secretary of the Land Management Committee or on facts coming to his notice otherwise, the Collector is satisfied that any person who is liable to ejectment on the suit of the Gaon Sabha otherwise than u/s 212 continues to be in possession of the land otherwise than in accordance with the provisions of this Act or has transferred possession of land to any other person, the Collector may if he thinks that it is necessary so to do, issue a notice to such person and to every other person in

possession through him to appear within a time to be fixed by him and to show cause why an order of ejectment be not made against them.

(2) The Gaon Sabha and all other persons interested in the land shall be made a party in all such proceedings.

(3) Where the person does not appear in pursuance of the notice under sub-section (1) or if he appears but does not contest the notice, the Collector may make an order for the ejectment of such person and every other person claiming possession through him.

(4) If the person appears, in pursuance of the notice under sub-section (1) and files any objection, the Collector shall proceed to hear the Gaon Sabha and the objector and any evidence which they may adduce.

(5) Where upon the said hearing the Collector is satisfied that such person is liable to ejectment as aforesaid, he shall pass an order for ejectment of such person and if the other person is in possession through him.

(6) Where an order for ejectment has been passed the person against whom the order has been passed, may institute a suit to establish the right claimed by him but subject to the results of such suit the order passed under sub-section (3) or (5) shall be conclusive.

4. A perusal of the said provision would demonstrate that it was a summary procedure prescribed for ejectment of persons occupying land without title other than public utility land. This provision was subsequently deleted and the order on which reliance is being placed by the petitioner has been purportedly passed under the said provision.

5. A perusal of the order which is Annexure-1 demonstrates that (he Assistant Collector (1st Class) Sikandarabad proceeded to treat the petitioner and others to have been recorded as tenants on deposit of 10 times of the hereditary rate of rent as sirdar w.e.f. 1363 fasli. Such a power is not reflected under the aforesaid provisions which came to be passed and further the order dated 26.4.1963 clearly indicates that no such deposit had been made and therefore the possession was directed to be delivered to the Gaon Sabha. Learned counsel submits that subsequently the order came to be passed on 25.5.1964 allowing the petitioner to deposit 10 times of revenue and to retain possession.

6. This procedure on which reliance is being placed by the petitioner is unknown to the provisions of U. P. Z.A. and L.R. Act, 1950. Nonetheless he has claimed continuous possession since 1363 fasli. The proceedings under which the entries have now been corrected is also a summary proceeding u/s 33/39 and, therefore, in case the petitioner files a suit for declaration the observations made in summary proceedings will not be an impediment in the passage of the petitioner.

7. Learned counsel further contends that similarly situate persons have been

extended this benefit and they continued to be recorded as bhumidhar with nontransferable rights. If that is so, this evidence can also be placed for claiming such a declaration.

The writ petition is consigned to records with the aforesaid observations.