
(2017) 01 AHC CK 0176
In the Allahabad High Court
Case No : Misc. Single No. 6018 of 2016

Laxman

APPELLANT

Vs

State of U.P Thru Secy Revenue Lko

RESPONDENT

Date of Decision : 05-01-2017

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 198-4

Citation : (2017) 134 RD 840

Hon'ble Judges : Rajan Roy, J.

Bench : Single Bench

Advocate : Devendra Pratap Singh, Ashok Kumar and Devendra Pratap Singh, Advocates, for the Petitioner; C.S.C and Yogendra Nath Yadav, Advocate, for the Respondents

Final Decision : Allowed

Judgement

Rajan Roy, J.—; Heard learned counsel for the parties.

2. The petitioner was granted a Patta of ceiling land on 19.12.1975 comprising of lands forming part of Gata No. 1426M (area 0-04 acre), Gata No. 1429M (area 0.032 hectares), Gata No. 1430 (area 0.028), Gata No. 1422 (area 0-24) total area measuring 3.04 Acres. During the consolidation proceedings new Plot number bearing Gata No- 920 (area 2-72 Acres) was allotted. On complaint being made the Patta of the petitioner was cancelled on 27.09.2005 whereupon the petitioner filed a Revision under Section 333 of the U.P.Z.A & L.R. Act whereupon the order of cancellation relating to the petitioner- Laxman was set-aside and the matter was remanded back for consideration afresh whereupon the impugned order dated 30.11.2009 was passed cancelling the Patta once again. Earlier the Patta was cancelled on the ground that the petitioner was not a resident of the village concerned, however, in the subsequent proceedings, the Patta was cancelled on the ground that on the basis of the documents submitted by him his age as on the date of grant of Patta was only 16 years, therefore, same could not have been granted to him. Secondly, as per a questionnaire

submitted by the petitioner himself the Tehsil Authorities had given certain details in respect of the land of which the Patta was granted to the petitioner and according to the Additional Collector, Kheeri the total area of the said land was 7-76 Acres.

3. The contention of the counsel for the petitioner is firstly that Ration Card as also Voter I-Card were submitted in those proceedings by the petitioner. In the Voter I-Card the age was 21 years as on the date of grant of Patta, but, in the Ration Card as per the age mentioned therein it was only 16 years. He submitted that the Ration Card by itself was not conclusive proof of age of the petitioner and the Additional Collector erred in relying upon it at the same time ignoring the Voter I-Card to cancel the Patta.

4. As regards the second ground for cancellation, he submits that it was nothing but a misreading of the documents. The contention is that the total area forming part of the Gatas of which the Patta was given to the petitioner was 3-04 Acres which during the consolidation proceedings was reduced to 2-72 Acres, however, these two figures were erroneously added by the Additional Collector resulting in a perverse conclusion that the total area of the land of which Patta had been granted to him was 7-76 Acres.

5. On a bare perusal of the Addhar-Khatauni a copy of which annexed as Annexure No. 3 to the writ petition, it is borne out that based on the Patta of the ceiling land granted to the petitioner on 19.12.1975 entry has been made in the Khatauni in favour of the petitioner with respect of Gata numbers referred above which shows that the total area of the said Gatas recorded in the name of the petitioner was 3-04 Acres which does not exceed the maximum limit prescribe in Section 198, therefore, there appears to be substance in the contention of the learned counsel for the petitioner and apparently the Additional Collector appears to have misread the documents to arrive at a perverse finding that an area more than 1.26 hectares prescribed in Section 198 was granted to the petitioner by way of the Patta of ceiling land, whereas, in fact it was not so.

6. As far as first ground is concerned, the Court finds merit in the said contention also as there was no justification for the Additional Collector to rely upon the Ration Card for determining the age of the petitioner as on the date of grant of Patta, while ignoring the Voter I-card. In fact neither of the two documents had conclusive evidentiary value for determining the age of the petitioner.

7. In these circumstances, the reasons given in the impugned order can not be sustained. The same is, accordingly, quashed. Consequences shall follow as per law.

8. The writ petition is allowed.