
(2011) 08 AHC CK 0261
In the Allahabad High Court
Case No : C.M.W.P. No. 44569 of 2011

Lokendra Singh

APPELLANT

Vs

Commissioner, Moradabad Division, Moradabad and others

RESPONDENT

Date of Decision : 08-08-2011

Acts Referred:

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

Citation : (2012) 1 AWC 138 : (2011) 114 RD 463

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard learned Counsel for the petitioner Sri Shailendra Singh, learned Standing Counsel for the respondent Nos. 1, 2 and 12, and Sri M.N. Singh for the respondent No. 11.

2. This matter arises out of the rejection of the claim against the cancellation of the lease of the petitioner under the provisions of sub-section (4) of section 198 of the U.P. Z.A. & L.R. Act, 1950.

3. The petitioner claims himself to be a landless person who came to be allotted certain land under the provisions of section 198(4) of the U.P. Z.A. & L.R. Act, 1950. The said allotment came to be scrutinized by the competent authority and a report was submitted that at the time of allotment of land to the petitioner his father was in possession of 25 bighas of agricultural land, and not only that, his mother also had a lease in her favour as noted in the objections and the report against the petitioner.

4. The petitioner along with other allottees filed his objection to the said report contending that he was living separately from his father and therefore the holding of the father cannot be clubbed with the petitioner's lease in order to ascertain the eligibility of the petitioner.

5. The eligibility as provided under the provisions of section 198, makes it clear through the explanation, that a land-less agricultural labourer residing in the circle would be entitled for allotment as per sub-clause (d) of Clause (1) of section 198. The explanation defines land-less being a person who or whose spouse or minor children hold no land as bhumidhar or asami, and did not hold land within two years immediately preceding the date of allotment. The second explanation further recites that an agricultural labourer means a person whose main source of livelihood is agricultural labour.
6. The objection filed by the petitioner makes a bald statement about the status of his father but it nowhere makes any recital about the status of the petitioner as that of an agricultural labourer. There is no pleading in the objection of the petitioner that his main source of livelihood was as an agricultural labourer.
7. Needless to mention that the petitioner is the only son of his parents. It was the burden of the petitioner to have proved that inspite of his father having 25 bighas of land, the petitioner was compelled to live separately and earned his livelihood as an agricultural labourer. It is only then that the petitioner could have been treated to be an eligible person and in the absence of any such pleading or proof, the petitioner could not have succeeded on the basis of oral arguments advanced on his behalf by the learned Counsel before the authorities.
8. The aforesaid finding, therefore, in the impugned orders that the petitioner is not an eligible person has to be upheld in the circumstances indicated above.
9. The writ petition lacks merit and is accordingly dismissed.