
(2003) 12 AHC CK 0096

In the Allahabad High Court

Case No : Review No. 25 of 2002-03 In Revision No. 26 of 1999-2000

Mahant Jai Narayan Das

APPELLANT

Vs

Ram Kumar etc.

RESPONDENT

Date of Decision : 10-12-2003

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 333

Citation : (2003) 12 AHC CK 0096

Hon'ble Judges : J.B.Sinha, J

Final Decision : Dismissed

Judgement

Dr. J.B. Sinha, Member.

1. The above review application has been preferred in revision No. 26/19992000 decided by the order dated 7122002 of this Court. The ground taken in the application is that the first revision was filed before the Additional Commissioner, Faizabad, in the year 1992 and Section 333A of U.P. Z.A. & L.R. Act was amended by notification dated 18897 vide Act No. 20 of 1997 which has prospective effect and it does not affect the pending revisions under Section 333A of U.P.Z.A. & L.R. Act and on the coming into force of the amending Act in those cases only old law applies because under Section 6 of the General Clauses Act in pending proceedings previous existing law applies, hence judgment dated 7122002 passed by this Court suffers from manifest error of law apparent on the face of record. It was also pointed out that the order dated 7122002 is based on the ruling reported in 1999 R.D. page 467 passed by the Honourable High Court whereas applicant's Counsel had supported his argument with the ruling reported in 2001 R.D. Page 287 passed by Honourable High Court on a later date and his contention is that as per settled principle the latest ruling will prevail over old one.

2. I have heard the learned Counsel for the applicant and Counsel for the opposite party Ram Kumar at length and gone through the records and rulings cited as above in the context of the order passed on 7122002. The Counsel for

the applicant relied on the ruling reported in A.W.C. 1989 page 281 in which it has been laid down that in case of conflict in two Supreme Court's decisions law as declared in the latter case has to be followed. But, this ruling not hold good in the present case as the amendment incorporated in Section 333 U.P.Z.A. & L.R. Act is amply clear and Honourable Justice V.M. Sahai has discussed the entire matter in the light of amendment of Section 10 in the Act in Writ Petition No. 12636 of 1999 which is reported in R.D. 99 page 467. The Court is of the considered opinion that after the notification of amendment in Section 333 of U.P.Z.A. & L.R. Act on 18897 and deletion of Section 333A in the Act only references pending before the Board of Revenue were saved and revisions pending before the Commissioner or the Additional Commissioner were not saved and as such a Commissioner or the Additional Commissioner ought to have decided the revisions pending before them on 18897 under Section 333 of the Act. I have gone through the ruling cited by the Counsel for the applicant reported in R.D. 2001 Page 287 which has no mention of the earlier view taken by the honourable High Court in R.D. 1999 page 467. Supreme Court in AIR 1984 S.C. page 1789 has held that single Judge not agreeing with earlier single judge decision of the same High Court, single Judge cannot take contrary view to the earlier Judge. In rulings reported at 2002 3 SCC page 219 *Jawahar Lal v. J & K*, 2002 (9) SCC page 477 and 2001 (2) SCC page 247, *Vijay Lakshmi v. Jagdish*, it has been held by the Supreme Court has in case of decision of coordinate bench of equal strength earlier judgment was binding on subsequent. In *Usha Kumar v. State of Bihar*, reported in J.T. (4) SC page 359 the Supreme Court has also held that taking a different view than the view taken by the earlier bench proper course was to refer the matter to Full Bench. Earlier in AWC 1982 page 367 and J.T. 1993 (3) SC page 290 the Honourable High Court has also held that it is hardly necessary to emphasize that consideration of judicial propriety and decorum required in that if a single learned Judge hearing a matter is inclined to take the view than the earlier decision of High Court, whether of a Division Bench or of a single Judge need to be reconsidered, he should not embark upon that enquiry sitting as a single Judge but should refer the matter to a Division Bench or in a proper case place the relevant papers before the Chief Justice to enable him to examine the question. Thus, the ruling cited and reported in R.D. 2001 page 287 in view of principle of *Subsilio Per enquirium* does not apply in the present case and order dated 7122002 passed in the revision is just, legal and based on the rulings of High Court & Supreme Court.

In view of the above discussions this review application preferred against the order dated 7122002 dismissing the revision as not maintainable in Board of Revenue, its being the second revision filed under Section 333 of U.P. Z.A. & L.R. Act, is devoid of merit and needs no review. Hence this review application is dismissed. Let the files of the Courts below be returned forthwith and this file be consigned.

Review dismissed.