
(2015) 04 AHC CK 0025
In the Allahabad High Court
Case No : Writ-B No. 6947 of 2015

Muda and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 03-04-2015

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 10, 11, 12, 13, 14
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 18, 189, 190, 4

Citation : (2015) 127 RD 827

Hon'ble Judges : Ram Surat Ram (Maurya), J

Bench : Single Bench

Advocate : Rajesh Shukla, for the Appellant

Final Decision : Dismissed

Judgement

Ram Surat Ram (Maurya), J.

1. Heard Sri Rajesh Shukla, for the petitioners. The writ petition has been filed against the orders of Consolidation Officer dated 8.1.1996, Settlement Officer Consolidation dated 31.10.2006 and Deputy Director of Consolidation dated 5.8.2014 passed in title proceeding under U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the Act).

2. The dispute relates to plots 834, 835 and 836 (total area 37-13-0 bigha) of village Ramada, pargana Kairana, district Muzaffar Nagar, which were recorded as Gaon Sabha land in basic consolidation records. It may be mentioned that the predecessors of the petitioners earlier filed an objection (registered as Case No. 3216, Ismil and others v. Gaon Sabha) under Section-9-A of the Act, in respect of plots 382/17 (area 2-0-0 bigha), 834/1 (area 1-13-0 bigha), 834/2 (area 1-0-0 bigha), 834/9 (area 0-10-0 bigha), 834/18 (area 0-5-0 bigha), 834/19 (area 0-12-0 bigha), 834/22 (area 1-10-0 bigha), 834/23 (area 0-5-0 bigha), 834/52 (area 1-5-0 bigha), 834/58 (area 1-0-0 bigha), 834/59 (area 0-10-0 bigha), 834/62 (area 2-17-0 bigha), 834/64 (area 0-15-0 bigha) and 834/65

(area 2-0-0 bigha), on the allegations that these plots were their bhumidhari holdings but for some time it were submerged in the water of river Yamuna. Now it has again came out of water as such there names be recorded over it. This objection was allowed by Consolidation Officer by order dated 11.11.1993, along with similar other objections of the village. They again filed another time barred objection (registered as Case No. 3452) under section 9-A of the Act, on 3.2.1986 in respect of aforesaid plots, on same allegations. The Consolidation Officer by order dated 8.1.1996, held that these plots were submerged in water of Yamuna, long before date of vesting and remained as such on the date of vesting as such, these plots vested in State of U.P. As no one was in cultivatory possession of these plots on the date of vesting as such no right can be claimed on it. On these findings, objection of petitioners was dismissed.

3. The petitioners filed an appeal (registered as Appeal No. 408/5/4/469/601) from the aforesaid order. The appeal was heard by Settlement Officer Consolidation, who by order dated 31.10.2006, dismissed the appeal. The petitioners filed a revision (registered as Revision No. 73) from the aforesaid order. Deputy Director of Consolidation, by order dated 5.8.2014 dismissed the revision. Hence this writ petition has been filed.

4. The Counsel for the petitioners submitted that plots 276 (area 1-0-0 bigha), 277 (area 1-13-0 bigha), 274 (area 1-9-0 bigha) and 988 (area 13-15-0 bigha) were recorded as khudkast in the names of the ancestors of the petitioners in 1327 F khatauni, which were renumbered as plots 834, 835 and 836. These plots were submerged in the water of river Yamuna. Now it has again came out of water. State of U.P. issued a Government Order dated 18.5.1975, directing the revenue authorities to record the names of the tenure-holders, who were recorded over the plots, which were for some times submerged in water of the river. As such their names were liable to be recorded over it. The petitioners filed khatauni 1327 F, in which plots 276 (area 3-0-0 bigha), 277 (area 4-15-4 bigha), 274 (area 3-0-0 bigha) and 988 (area 41-5-0 bigha) were recorded as khudkast in the names of Raham Ali, Rahamu, Tuman, Sharkan sons of Shamat Ali and Ali Bux, Karjala, Ali Baz sons of Baxan.

5. I have considered the arguments of the Counsel for the petitioners and examined the record. After coming into force of U.P. Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act No. 1 of 1951) all estates situated in Uttar Pradesh were vested in State of U.P. under section 4. The intermediary in possession of sir and khudkast land, on the date of vesting, acquired bhumidhari right under section 18 of U.P. Act No. 1 of 1951. The petitioners could not adduce any document to show that they were in possession of the land in dispute in 1359-F. In 1359-F entire disputed land was submerged in water of river Yamuna. Thus the ancestors of the petitioners, did not acquire any tenure holder right after date of vesting under the Act. The land was vested in State of U.P. Subsequent possession over State land will not confer any right.

6. So far as Government Order dated 18.5.1975, issued by State of U.P. is

concerned, it has clarified the provisions of sections 189 and 190 of U.P. Act No. 1 of 1951, under which right to tenure holder is extinguished, due to deprivation of possession for a period more than the period prescribed for obtaining possession. It provides that if a tenure holder was deprived of his possession due to land being submerged in the water, then the tenure holder will not be deprived of his right and when the land comes out of water, tenure holder will be entitled to cultivate it, with same right. Purpose of section 4 of U.P. Act No. 1 of 1951 was to abolish zamindari system. Zamindar's right was taken away by giving them nominal consideration. New tenure holders right was conferred under sections 10 to 21 and section. 26-A and B. Zamindar's were conferred right over the land of their personal cultivation subjection ceiling limit. If the land was not in personal cultivation on the date of vesting then they could not get right over it. They were entitled to compensation only according to the provisions of the Act. While sections 189 and 190 extinguish right to tenure holder, for not taking possession over his tenancy land within period of limitation. In case of the land being submerged in the water, taking possession over it is not possible till the land comes out of water. In view of the aforesaid discussions, the writ petition has no merit and is dismissed.