(2015) 04 AHC CK 0285

In the Allahabad High Court

Case No : Misc. Single No. 4792 of 2008

Muneshwar APPELLANT

Vs

Board of Revenue, U.P. Allahabad RESPONDENT

Date of Decision : 28-04-2015

Acts Referred:

Uttar Pradesh Land Revenue Act, 1901 — Section 34
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 166, 167, 229-B, 331

Citation : (2015) 129 RD 225

Hon'ble Judges : Anil Kumar, J.

Bench : Single Bench

Advocate : Ravi Shankar Somvanshi, for the Appellant; Kunwar R.P. Singh and R.N. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—Heard Shri R.S. Somvanshi, learned Counsel for the petitioner, learned State Counsel appearing on behalf of opposite party Nos. 1 to 3, Shri Kunwar R.P. Singh, learned Counsel appearing on behalf of opposite party No. 6 and perused the record. As per undisputed facts of the case, Smt. Raghuree W/o Sri Mathura was recorded tenure holder of the land in question. As she has no male child except two daughters, one Smt. Gilla (mother of the petitioner) and another Smt. Dulari (opposite party No. 6). As the petitioner''s mother/Smt. Gilla was living with Smt. Raghuri and taking care till her death, so Smt. Raghuri executed a Will deed dated 11.10.1991 in her favour.

2. On 23.7.1993, Smt. Raghuri died and Smt. Gilla/mother of the petitioner moved an application under section 34 of the L.R. Act for mutating her name, rejected by order dated 22.11.2001, challenged by Smt. Gilla by filing an appeal under section 210 of U.P.L.R. Act before the Sub-Divisional Magistrate, Buxi Ka Talab, Lucknow, rejected by order dated 7.4.2004.

3. The order dated 7.4.2004 has been challenged by filing a revision before the

Commissioner Lucknow Division, Lucknow, allowed by order dated 30.7.2005 and the matter was remanded back to Naib Tehsildar, Buxi Ka Talab, Lucknow. Thereafter, in the matter in issue, a report dated 25.5.2006 has been submitted by the opposite party No. 6. Keeping in view the above said facts, opposite party No. 3/Assistant Collector, First Class, Buxi Ka Talab, Lucknow by order dated 1.11.2006 initiated a proceeding under section 166 /167 of U.P.Z.A. & L.R. Act against the petitioner and also held that Smt. Raghuri was Bhumidhar with non transferable right, hence, the Will executed by her had no legal sanctity and validity, remanded back to the opposite party No. 5 to take fresh decision.

4. Aggrieved by the said order, the petitioner filed an appeal under section 331 of U.P. Z. A. & L.R. Act before the Commissioner, Lucknow Division, Lucknow, rejected by order dated 22.2.2007, challenged by filing a revision before the Board of Revenue, dismissed by order dated 5.6.2008.

5. In view of the above said facts, the present writ petition has been filed before this Court.

6. Learned Counsel for the respondents submits that in respect of the land in dispute, petitioners have already filed a suit under section 229-B of U.P. Z. A. & L.R. Act, dismissed by the competent authority. At present, said controversy is pending for adjudication in revision before the Board of Revenue, so keeping in view the above said facts, the present writ petition is not maintainable, liable to be dismissed.

7. Learned Counsel for the petitioners does not dispute the said facts.

8. Thus, keeping in view the above said facts, once the proceedings under section 229-B of U.P. Z.A. & L.R. Act have been initiated by the petitioner in respect to the land in question and at present, they are pending for adjudication before the Board of Revenue, so the present writ petition is not maintainable and liable to be dismissed on the said ground. (See Jaipal v. Board of Revenue U.P. Allahabad and others, 1956 ALJ 807 Smt. Lakhpati and another v. Board of Revenue, U.P. 1984 RD 378 State of U.P. Vs. Board of Revenue and Others, Shiv Raj Gupta Vs. Board of Revenue and Others, Puran Singh Vs. Board of Revenue and Others, and Ram Kumar v. Board of Revenue U.P. Lucknow and others. 2003(1) AWC 505. Accordingly, the writ petition is dismissed with the observation that revision pending before the Board of Revenue shall be decided, expeditiously, say, within a period of six months from the date of receiving a certified copy of this order, for a period of six months or till the decision taken by the said authority, parties are directed to maintain status quo, as it exits today, in respect of the land in dispute.