

(1970) 01 AHC CK 0002

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 3364 of 1964

Nand Lal and Others

APPELLANT

Vs

State of UP and Others

RESPONDENT

Date of Decision : 20-01-1970

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 211A, 3(14)

Citation : (1970) 40 AWR 154

Hon'ble Judges : H.C.P. Tripathi, J

Bench : Single Bench

Advocate : Ambika Prasad and K.B. Mathur, for the Appellant;

Final Decision : Allowed

Judgement

H.C.P. Tripathi, J.—This writ petition is directed against an order of Sri Mahipal Singh, S.D.O. Karchhana, passed on 13-3-64.

2. The Gaon Samaj filed a suit u/s 211-A of the UPZA and LR Act on the assertion that the Petitioners have taken illegal possession of the plots belonging to the Gaon Samaj and have started quarrying ballast stones from them without paying any royalty. The Petitioners filed a written statement that they were in possession of the plots for quarrying ballast stones from them on the basis of a lease granted to them by the ex-zamindars on 8-10-51 and the Gaon Samaj had no authority to demand any royalty from them.

3. One of the issues framed by the learned Magistrate was that "whether the Defendants work out the mine, if any?". The trying Magistrate held that the Gaon Samaj had ceased to hold any right or interest in such land in which there are quarries and they are not competent to appropriate mineral resources. By a curious reasoning, however, which it is not necessary to discuss here, he decreed the suit but directed the Tahsildar to submit his proposals for auctioning the mineral resources to the District Magistrate.

4. Munshi Ambika Prasad, learned Counsel for the Petitioners, has argued that as

the plots in suit are not land as defined in the ZA Act, the entire proceedings u/s 211-A, initiated before the Magistrate, were misconceived and his order is not sustainable. I find force in this contention.

5. Section 3(14) of the UPZA and LR Act reads:

"Land" (except in Sections 109, 143 and 144 and Ch. VII) means land held or occupied for purposes connected with agriculture, horticulture, or animal husbandry which includes pisciculture and poultry farming.

Section 3(17) defines "Mines" as "any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on...."

6. It was the case of the parties that ballast stones were being excavated from the plots in suit. The Magistrate has also given a finding that the plots contained minerals. That being so, it is obvious that the plots were not land within the meaning of Section 3(14) of the Act.

7. Section 211-A provides summary procedure for ejectment of persons occupying land without title. The Petitioners were not occupying land but mines and therefore Section 211-A was wholly inapplicable in this case and the order passed by the Sub Divisional Officer is illegal.

8. In the result this petition is allowed with costs and the impugned order is quashed.