

(2015) 04 AHC CK 0155
In the Allahabad High Court
Case No : C.M.W.P. No. 1138 of 2015

Neeraj Kumar Mishra

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 9A(2)

Citation : (2015) 3 AWC 3167

Hon'ble Judges : S.S. Chauhan, J

Bench : Single Bench

Advocate : Sushil Kumar and Akshat Srivastava, for the Appellant; Yogendra Nath Yadav, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S.S. Chauhan, J.

1. Heard learned counsel for the petitioner, learned standing counsel as well as learned counsel for the Gaon Sabha. The order in this case was reserved on 17.3.2015. Learned counsel for the petitioner wanted to place certain case laws for perusal of the court, but no case law has been filed by the counsel for the petitioner, which may lend support to the argument advanced on behalf of the petitioner.

2. The petitioner, who happens to be a member of the Gaon Sabha, has come forward to challenge the order dated 30.9.1993 passed by the Tehsildar (Nyayik), the order dated 16.7.2010 passed by the Tehsildar Sadar and the order dated 3.9.2014 passed by the Collector. Raebareli as contained in Annexures-1, 2 and 3 respectively to the writ petition.

3. The earlier proceedings were initiated against the petitioner on the report submitted by the Lekhpal in 1983 under Rule 115C of U.P.Z.A. and L.R. Rules. The Nayab Tehsildar submitted a report on 24.3.1990 and after considering that report, notice issued under Rule 49A of the U.P.Z.A. and L.R. Rules was taken

back.

4. The present report, which has been filed against the petitioner, has been filed at the instance of village rivalry and that the private respondent has established in the earlier round of litigation that patta was executed in his favour and he is in possession since long.

5. Be that as it may, the question before this Court is as to whether the petitioner, in individual capacity, being a member of the Gram Panchayat can challenge the order passed by the Collector. There is no resolution passed by the Gaon Sabha, authorizing the petitioner to challenge the order passed by the Collector.

6. The law contemplates that if somebody wants to challenge the action of the revenue authorities on behalf of the Gaon Sabha, then there has to be a resolution on behalf of the Gaon Sabha to challenge the same.

7. In the case of Sita Ram and Another Vs. Deputy Director of consolidation and Others, (1982) RD 13 , held as under:

"22. Thus, in view of the above I am of the opinion that the objection filed by the opposite party No. 3 Sheo Prasad cannot be treated to be a valid objection on behalf of the Gaon Sabha under Section 9A(2) of the U.P. Consolidation of Holdings Act, on the ground that he was himself an interested person under Section 9A(2) of the Act, as admittedly the Land Management Committee of the Gaon Sabha had not passed any resolution taking decision to file objection, appeal and revision nor opposite party No. 3 was authorised to file those on behalf of the Gaon Sabha. It is also not disputed that the action of the opposite party No. 3, in filing objections, appeal, and revision on behalf of the Gaon Sabha, was not ratified by the Land Management Committee in its meetings. Thus, the objections, appeal and revision filed by opposite party No. 3 Sheo Prasad on behalf of the Gaon Sabha were wholly incompetent and opposite party Nos. 1 and 2 acted illegally and without jurisdiction in passing the impugned orders."

I, therefore, find that the writ petition on behalf of the petitioner in individual capacity is not maintainable. It is accordingly dismissed.