

(2013) 04 AHC CK 0061

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 66366 of 2006

Om Pal Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 22-04-2013

Acts Referred:

Citation : (2013) 5 ALJ 500 : (2013) 99 ALR 237 : (2013) 119 RD 694

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Advocate : H.N. Singh and B. Narayan Singh, for the Appellant;

Judgement

Sibghat Ullah Khan, J.—Heard Sri. H.N. Singh, learned counsel for the petitioner and learned standing counsel for the respondents. The amendment application filed on 18.1.2010 is allowed.

2. Land in dispute which is agricultural in nature belongs to Irrigation Department of State of U.P. and is adjacent to lower Division Purvi Yamuna Nahar, Samli Muzaffar Nagar. Rishal Singh, father of petitioner Nos. 1 to 3 and Karan Singh were granted patta of land in dispute by the respondent Executive Engineer of the canal for five years from 1.10.1984 to 30.9.1989 on a negligible rent of Rs. 258.56 per year. Total area of the land in dispute is 4.78 acre (7 bigha 13 biswa). The lease was given under Government Grants Act, 1895. After the expiry of period of lease allottees did not vacate the land in question hence proceedings under U.P. Public Premises Eviction of Unauthorised Occupants Act were initiated, after giving notice, in the form of case No. 37 of 2002-03, State of U.P. through Executive Engineer Lower Division Purvi Yamuna Nahar Muzaffar Nagar v. Rishal Singh. Proceedings were initiated on 16.12.1992.

3. The Prescribed authority/Additional Collector Samli through order dated 20.7.2004 directed eviction of the petitioners and recovery of damages @ of Rs. 12,000/- per year w.e.f. 1.10.1989. Against the order of the Prescribed Authority petitioners filed PP Civil appeal No. 55 of 2005 which was dismissed by A.D.J.

Court No. 12, Muzaffar Nagar on 1.11.2006, hence this writ petition.

4. In the impugned orders it is mentioned that lease had expired and it was never renewed. During pendency of the proceedings petitioners filed application for renewal which was rejected on 4.12.2009 by the Executive Engineer. The said order has also been sought to be challenged through amendment.

5. On 3.9.1992 Rishal Singh father of petitioner Nos. 1 to 3 had been required to deliver back possession of more than 3.125 acre which was not done by him. Rishal Singh died on 1.5.2002.

6. An earlier writ petition which had been filed in the year 1994 (writ petition No. 34244 of 1994 Karta Ram and others v. State of U.P.) in which Rishal Singh was petitioner No. 6 was decided by this Court on 24.10.1994 and it was directed that application of petitioners for renewal should be considered and till then no further action on the notice which had been issued to them should be taken. The said application filed by present petitioners was rejected on 4.12.2009. In the impugned orders it is mentioned that no evidence was available to show that Rishal Singh had earlier applied for renewal.

7. One of the arguments raised before the lower appellate court was that legal representatives of Rishal were not substituted before the Deputy Collector. The petitioners had themselves appeared before the S.D.O. by filing an application on 8.9.2003 hence there was no further need to file formal substitution application as strict principles of C.P.C. do not apply to the proceedings in question. The trial Court/Deputy Collector passed the order after hearing the petitioners thoroughly. The lower appellate court has also mentioned that neither it was mentioned in the reply filed by Rishal Singh nor any evidence was led to show that any application for renewal was filed.

8. No lessee has got right of renewal unless it is mentioned in the original lease. No such case was ever taken by the petitioners that in the lease deed of 1984 there was any provision for renewal. Lease granted under Government Grants Act, 1895 is to be governed by its own terms and not by T.P. Act etc. as provided under Sections 2 and 3 of the Act. u/s 129 of U.P.Z.A.L.R. Act Government lessee is one of the classes of tenure holders. Section 133-A of U.P.Z.A.L.R. Act is quoted below:

133-A of Government Lessees

Every person to whom land has been let out by the State Government shall be called a Government lessee in respect of such land and shall notwithstanding anything to the contrary contained in this Act be entitled to hold the same in accordance with the terms and conditions of the lease relating thereto.

9. Accordingly, I do not find least error in the impugned orders. Petitioners are not entitled for renewal. In any case they cannot compel the Government to renew the lease. Government is fully authorised not to renew the lease without giving any reason. If lease of agricultural land is granted on concessional rate

men it is desirable that it shall be granted for limited period and after expiry of the period lease shall be granted to other persons so that several persons may enjoy the largess. Writ petition is therefore dismissed.