

(2009) 05 AHC CK 0784
In the Allahabad High Court

Parmarth Mishra

APPELLANT

Vs

Collector/District Magistrate, District Deoria (U.P.) and others

RESPONDENT

Date of Decision : 13-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0784

Hon'ble Judges : S.U.Khan, J

Final Decision : Disposed Of

Judgement

S.U.Khan,J.

This writ petition arises out of proceedings under Section 122B of U.P. Zamindari Abolition & Land Reforms Act initiated against the petitioner for his eviction from Gaon Sabha property. Following orders have been challenged through this writ petition;

(1) Order dated 28.10.2000 passed by Assistant Collector, Ist Class/Additional Tehsildar, Deoria in case no. 15/50/91 Gaon Sabha vs. Parmarth. Through the said order petitioner was directed to file suit under Section 229B of U.P.Z.A.&L.R. Act before competent court for declaration of his rights and proceedings under Section 122B of U.P.Z.A.&L.R. Act were stayed till the decision of the regular suit.

(2) Order dated 28.2.2003 passed by A.D.M. (Finance & Revenue), Deoria in Revision no.111 which was filed by Gaon Sabha against the order at Sl.No.1 and was allowed on 28.2.2003. The order of eviction was passed by the revisional court against the petitioner.

The allegation against the petitioner was that he was in unauthorised possession of an area of .010 acres (48.4 sq. yard) which was part of gaon sabha plot nos. 252 and 253 and had made constructions (house) thereupon.

I have held in Bhudae Vs. Collector, Fatehpur 2005 (98) RD 741 that if some one is in possession over a small piece of Gaon Sabha land since long and the land is not reserved for some important public purpose like pond, rasta etc. and

the person in possession has constructed his house, then instead of demolition and eviction, award of reasonable damages is the proper relief. I have also held that if the possession is continuing since seventies or early eighties, measure of reasonable damages shall be Rs.100/ per square yard, which was approximately the value of abadi land at that time in the villages of U.P.

Even though the Lekhpal stated in the year 1999 that possession of the petitioner was 25 years old still on the persuasion of the court learned counsel for the petitioner has agreed for payment of Rs.10,000/ as damages.

Accordingly, both the impugned orders are set aside on the condition that petitioner deposits Rs.10,000/ within six months before the Collector concerned for being kept in consolidated gaon fund constituted under Section 125A of U.P.Z.A.&L.R. Act. On payment of this amount within the aforesaid period, the land in dispute shall stand permanently settled with the petitioner. In case of default, this order shall stand automatically vacated and writ petition shall be deemed to have been dismissed and impugned order by Revision court shall immediately be executed.

Writ petition is accordingly disposed of.