

(2003) 11 AHC CK 0120
In the Allahabad High Court
Case No : Reference No. 111 of 1994-95

Pooran Singh

APPELLANT

Vs

Gaon Sabha

RESPONDENT

Date of Decision : 24-11-2003

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 186(5)

Citation : (2003) 11 AHC CK 0120

Hon'ble Judges : R.R.Yadav, J

Final Decision : Dismissed

Judgement

S.R. Yadav, Member.

1. This reference dated 11795 made by the Commissioner, Bareilly Division, Bareilly with the recommendation to quash the trial Court's order dated 15592 whereby the name of Pooran Singh stood struck off from the disputed land.
2. Briefly the facts of the case are that the Plot Nos. 31 and 37 total 11.331 hectare situate in village Pandars Ramdas, Pergana Jahanabad, Tahsil and district Pilibhit, was originally recorded in the name of Pooran Singh S/o Bahadur Singh r/o of same village. On report of L.M.C. a recommendation was made by L.R.I. on 31192 whereupon the aforesaid proceedings started against Pooran Singh. Notices were issued and it was reported that the leaseholder was missing from the village and after taking the statement of Lekhpal the case was decided on 15592 whereby the disputed land was treated as abandoned and secondly the same was rested with the Gaon Sabha. The order dated 15592 was challenged in revision before Commissioner, Bareilly Division, whereon the aforesaid recommendation dated 11795 was made as such, the instant reference has come before this Court.
3. Heard the learned Counsel for the parties and perused the relevant papers on file.
4. The learned Counsel for the revisionist submitted that as the reference was in

favour of the revisionist as such, the same should be accepted as per the recommendation made by the learned Commissioner. He also submitted that as per the provisions of Section 186(5) of the Act, if the allottee appears notices issued against him should be withdrawn. He further submitted that the revisionist was in possession over the land in dispute and hence submitted that the reference be accepted.

In reply, it is contended that the revisionist have never been in possession over the land in dispute since the date of allotment. He further contended that the disputed land was in possession of other persons and further the revisionist was not residing in the village. In this connection he has attracted my attention towards the supplementary affidavit/objection. A bare perusal of this shows that it has been filed in reply to the affidavit filed by the revisionist wherein it is submitted that the revisionist was not in possession over the land in dispute. It further reveals that the proceedings under Section 198(4) of U.P. Z.A. & L.R. Act were also initiated against the revisionist and in view of the above facts the lease granted in favour of the revisionist has been cancelled and the revision preferred against that order before the Commissioner, Bareilly Division, has also been dismissed, vide the order dated 17401. In view of the above circumstances I find force in the submissions made by the learned DGC (R) that if once the land is declared as abandoned, then the recommendation made by the Commission for quashing the trial Court's order dated 15592 is not acceptable.

In the result, the reference having no force is hereby rejected, the recommendation dated 11795 made by the Commissioner, Bareilly Division, is hereby rejected and the order dated 15592 passed by the trial Court is confirmed.

Reference rejected.