
(1999) 09 AHC CK 0205
In the Allahabad High Court
Case No : C.M.W.P. No. 15904 of 1988

Pramod Kumar and others

APPELLANT

Vs

Sub-Divisional Officer, Khaga Fatehpur and others

RESPONDENT

Date of Decision : 16-09-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Land Revenue Act, 1901 — Section 219

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 229B

Citation : (1999) 4 AWC 3481 : (1999) AWC 3481 : (1999) RD 649

Hon'ble Judges : Lakshmi Bihari, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : B. Malik, for the Appellant; Satrugan Singh, for the Respondent

Final Decision : Dismissed

Judgement

Binod Kumar Roy and Lakshmi Bihari, JJ.—After rejecting earlier the prayer for adjournment made by Sri B. Malik, learned counsel for the petitioners, we heard him and Sri H. R. Mishra, learned standing counsel appearing on behalf of the Respondent Nos. 1 and 2. We also put on record that petitions filed for impleadment and vacating interim order, on the ground that the petitioners have based their claim on forged and fabricated papers, have been dismissed for default.

2. In this writ petition, under Article 226 of the Constitution of India, the petitioners have prayed for (i) quashing the Report dated 19.1.1988 of the Naib Tehsildar, who has not been impleaded as a respondent and the order dated 20.1.1988 of the Sub-Divisional Officer, Khaga, district Patehpur which has not been brought on the record and (iii) to command the respondents not to evict them from the land in dispute.

3. At the very out set. It is significant to mention that although the petitioners have prayed for quashing the order dated 20.1.1988 of the Sub-Divisional Officer, Khaga, District Fatehpur, but a copy of the said order has not been

annexed.

4. In view of the pronouncement of the Hon"ble Supreme Court made in the judgment in Surinder Singh Vs. Central Government and Others, , that the High Court cannot quash an order unless it is brought on the record, this writ petition deserves to be dismissed.

5. He has also not Irnpleaded the Naib Tehsildar as a party-respondent whose report is sought to be quashed.

6. Apart from the aforesaid infirmities, we find substance in the submissions made by Sri H. R. Mishra. learned standing counsel, that this writ petition is not maintainable as it arises out of proceedings under the Land Revenue Act, which does not involve adjudication of right, title and interest of a party concerning the lands and the remedy, if at all, to an aggrieved person, is to file a revision u/s 219 of the U. P. Land Revenue Act.

7. In a summary proceeding like this, we cannot adjudicate the claim of title of the petitioner. In fairness to Sri Malik, we put on record his submission that the authority concerned had completely misconceived the orders passed by" the Consolidation authorities passed in favour of the petitioners which became final after denotification and Khatauntes were also prepared in favour of the petitioners and even by this Court in some cases as stated In paragraph 8 of this writ petition and that the lands were wrongly claimed to be vested in Gaon Sabha by respondent No. 3 and the Land Management Committee by filing suit u/ s 229B of U.P.Z.A. and L.R. Act which was dismissed but pending in appeal.

8. For the reasons aforementioned, we dismiss this writ petition.

9. Before parting it is made clear that this order shall not be interpreted by the petitioners to mean that we have found substance in their claim.

10. The office is directed to hand over a copy of this order within one week to Sri H. R. Mishra. learned standing counsel, for its intimation to the authority concerned.