

(2011) 09 AHC CK 0401
In the Allahabad High Court
Case No : Writ B. No. 56921 of 2011

Pyare Lal and Others

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 29-09-2011

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 198, 229B

Citation : (2011) 09 AHC CK 0401

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Judgement

Amreshwar Pratap Sahi, J.—Heard Learned Counsel for the Petitioners and Sri S.C. Pandey for the Respondent No. 6. Notice has been accepted by the learned Standing Counsel for the Respondent Nos. 1 to 4 and Sri D.D. Chauhan for the Respondent No. 5.

2. The contention of the Petitioners is that they were allotted land in dispute vide proceedings dated 24.11.1975. This lease has neither been cancelled nor has been set aside so far.

3. The Respondent No. 6 claims to have obtained the same land through a lease dated 2nd January, 1972 which is alleged to have been approved by the Sub Divisional Magistrate.

4. In the year 1995, the Respondent No. 6 filed a suit giving rise to the present proceedings contending that the Petitioners herein cannot be permitted to interfere with the lease of the answering Respondent which is valid, nor the possession of the answering Respondent can be allowed to be interfered with on the basis of such an illegal lease said to have been obtained by the Petitioners subsequently.

5. A supplementary affidavit has been filed bringing on record the order of the trial court which runs in only two pages. The said judgment dated 11th April, 2002 only records a conclusion that the grant of lease to the Petitioners was

invalid and that to the Respondent No. 1 was valid and hence the Respondent was entitled for a declaration to the effect that the Petitioners should be dispossessed from the land in dispute.

6. Aggrieved, an appeal was filed and the appeal has also been dismissed. A revision before the Board has also met the same fate. Hence this petition.

7. A pure substantial question of law had arisen with regard to the validity of the lease of the Petitioners vis-a-vis the contesting Respondent No. 6 and also the clear issue of limitation, inasmuch as, the lease of the Petitioners could not have been cancelled through a circumvented method after 27 years through a suit u/s 229-B of the U.P. Z.A. & L.R. Act, 1950. It is further submitted that not only this no proceedings for cancellation u/s 198 of the U.P. Z.A. & L.R. Act, 1950 were undertaken.

8. The submission has merit and therefore requires consideration.

9. Learned Counsel for the Respondents may file a counter affidavit within three weeks. Learned Counsel for the Petitioner shall file rejoinder within a week thereafter. List thereafter.

10. Until further orders of the Court, the parties are directed to maintain status quo with regard to possession over the land in dispute as existing on today and no third party rights shall be created during the pendency of the writ petition.