

(2014) 03 AHC CK 0090
In the Allahabad High Court
Case No : Writ-C No. 15269 of 2014

Raghuveer Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-03-2014

Acts Referred:

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

Citation : (2014) 123 RD 200

Hon'ble Judges : Ran Vijai Singh, J

Bench : Single Bench

Advocate : Rajeshwar Singh and Ram Janam Singh, Advocate for the Appellant

Judgement

Ran Vijai Singh, J.—Learned Counsel for the petitioners is permitted to implead concerned Gaon Sabha as respondent No. 4 to the writ petition and serve the copy of the writ petition to Sri Arun Kumar Srivastava learned Counsel for the concerned Gaon Sabha during the course of the day. Heard Sri Rajeshwar Singh, learned Counsel for the petitioner, learned Standing Counsel appearing for the State-respondents and Sri A.K. Srivastava, learned Counsel for the Gaon Sabha.

2. While assailing the impugned order dated 8.10.2012 passed by Sub-Divisional Officer, Bijnor in case No. 16/2010-11 (Imrat v. State of U.P.) and order dated 29.11.2013 passed by the Commissioner, Muradabad Division, Muradabad in revision No. 72/2012-13 (Raghuveer Singh v. Gaon Sabha and others), learned Counsel for the petitioners contends that the petitioners were declared bhumidhars of the land in dispute vide judgment and decree dated 18.3.1967 in case No. 33 filed u/s 229-B of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (in short, "the Act") and that order could not be recalled by the Sub Divisional Officer in a suo motu proceeding taking shelter of the judgment of this Court in Writ Petition No. 47176 (Dinanath v. State of U.P.). In his submissions, in the aforesaid judgment, there is no direction to set aside the decree passed by the competent Court in a regular proceeding and that judgment only restricted to the fake entries in the revenue records. In his further submissions, since the

petitioners" names were recorded on the basis of judgment and decree dated 18.3.1967, therefore, this could not be set aside in such manner. It is further contended that the revisional Court has also erred in dismissing the petitioners' revision against the order dated 8.10.2012.

3. Prima facie, I find substance in the submissions of learned Counsel for the petitioners.

4. Matter requires scrutiny.

5. Issue notice.

6. Notices on behalf of respondent Nos. 1 to 3 have been accepted by the office of learned Chief Standing Counsel, whereas Sri Arun Kumar Srivastava has put in appearance on behalf of respondent No. 4. Therefore, notices need not be served again to the respondents.

7. Learned Counsel for the respondents are granted six weeks time to file counter-affidavits. Rejoinder affidavit, if any, may be filed two weeks thereafter.

8. List thereafter showing the name of Sri Arun Kumar Srivastava as Counsel for the respondent.

9. As an interim measure, without prejudice to right and contention of the parties, the proceedings of the case No. 37 of 1987 (Imrat v. State of U.P.) may go on before the Sub Divisional Officer, but final judgment shall not be delivered till the next date of listing. It is further provided that in the meantime, the parties shall maintain status quo, as on date, with respect to nature and possession over the land in dispute. It is further provided that subject to further orders of this Court, the eviction of the petitioners from the land in dispute shall remain stayed, provided:

(i) the petitioners deposit Rs. 3,000/- (Rupees three thousand only) within a period of two months from today before the respondent No. 3;

(ii) the above amount shall be deposited every year in the same month in which the first deposit is made;

(iii) the condition of deposit will not apply in case the State Government declares the area under drought or flood;

(iv) the amount so deposited shall be kept in a separate account;

(v) in case the writ petition is allowed, the amount so deposited shall be returned to the petitioners with interest and in case the writ petition is dismissed, the amount so deposited shall go to the Gaon Sabha;

(vi) in case of default of the above conditions, the interim protection granted today shall stand vacated;

(vii) in the meantime, neither any construction shall be made over the land in

dispute nor any third party right shall be created.