
(2012) 12 AHC CK 0146
In the Allahabad High Court
Case No : Writ Petition No.427 (M/S) of 2004

Rakesh Kumar Gupta

APPELLANT

Vs

Board of Revenue, U.P., Lucknow and Others

RESPONDENT

Date of Decision : 17-12-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Land Revenue Act, 1901 — Section 34

Citation : (2012) 12 AHC CK 0146

Hon'ble Judges : Anil Kumar, J

Final Decision : Dismissed

Judgement

Anil Kumar, J.—Heard Sri Pankaj Gupta, learned counsel for the petitioner, learned State Counsel and Sri Babar Khan, learned counsel for contesting respondents.

2. Controversy in the present case relates to plot no. 714 measuring 3 bigha and 1 biswa situate in village Mahatwana, Tehsil Sandila, District Hardoi Hereinafter referred as " land in question"). In respect to the said land, an application under Section 34 of the Land Revenue Act has been moved . In pursuance to the same the names of Smt. Savitri Shukla and Vinay Shukla were mutated in the revenue record. Thereafter, petitioner moved an application for recall of the order dated 30.6.1973, the same was allowed subject to cost of Rs. 150/ . However, in the meantime, Smt. Savitri Shukla and Vinay Shukla sold the land in question. In view of the said fact, appeal was filed in the matter in question, allowed thereafter revision was filed by the petitioner, the same was dismissed by order dated 27.12.2003 (Annexure no.1) in Revision No. 273(LR) of 2002/03, hence the present writ petition has been filed. This Court on 6.2.2004 has passed the interim order, the relevant portion is quoted as under:

" In the meantime, the operation of impugned order dated 17.5.2003 passed in Appeal No. 50/52/68 of 2003 by the Assistant Collector Ist Class / Sub Divisional Magistrate, Shandila, Hardoi shall remain stayed."

3. Admittedly, in the present case the proceedings are arising out of Section 34 of the Land Revenue Act. It is a settled proposition of law that the proceedings under Section 34 of the Land Revenue Act do not decide the right and title of the parties. The object of mutation proceedings is as to form whom the State has to recover the land revenue. It becomes immediately imperative to have got the name of some successor mutated in place of the deceased so that the land revenue can be recovered from him. The scope of these proceedings is not that any right or title of any body is sought to be decided.

4. Further, it is a settled view of this Court that it should not interfere with the order issued by the authorities while deciding the proceedings under Section 34 of the Land Revenue Act, as in the said proceedings the issue only in respect to record the name of tenure holder in the revenue record is under consideration. Such an entry does not ordinarily confer upon the person in whose favour it is made any title of property in question and his right is to be established as per the procedure provided under law (See *Jaipal Vs. Board of Revenue, U.P., Allahabad and others*, 1956 ALJ 807, *Smt. Lakhpati and another Vs. Board of Revenue, U.P.* 1984 RD 378, *State of U.P. through Collector, Agra Vs. Board of Revenue at Lucknow and others*, 1993 RD, 206, *Shiv Raj Gupta Vs. Board of Revenue, U.P., Lucknow and others*, 1989(2) AWC 947, *Pooran Singh Vs. Board of Revenue and others*, 2004(1) AWC 853 and *Ram Kumar Vs. Board of Revenue U.P. Lucknow and others*, 2003 (1) AWC 505)

5. Thus, in view of the above said facts as the dispute involved in the present case is arising out of Section 34 of the Land Revenue Act, as such the petitioner has got an alternative efficacious remedy for redressal of his grievance under Section 229B of the U.P.Z.A. & L.R. Act before the competent court so the present writ petition is not maintainable on the said ground and is liable to be dismissed.

6. For the foregoing reasons, the writ petition is dismissed as not maintainable on the ground of alternative remedy available to the petitioner.

7. However, keeping in view of the peculiar facts of the present case as stated above, it is provided that the petitioner is permitted to raise his grievance which he has raised in the present writ petition by filing a suit under Section 229B of the U.P.Z.A. & L.R. Act along with an application for interim relief/ injunction before the appropriate authority/ court within a period of ten weeks from the date of receiving of a certified copy of this order. Thereafter the said authority/ Court shall consider and decide the application for interim relief within a further period of four weeks.

8. For a period of fourteen weeks or till the decision is taken by the authority/ court on the application for interim relief/ injunction whichever is earlier, parties are directed to maintain status quo as exists today.