
(1959) 09 AHC CK 0043

In the Allahabad High Court

Case No : Civ. Miscellaneous Writ No. 1076 of 1957

Ram Dular Singh

APPELLANT

Vs

Commissioner, Faizabad Division and Others

RESPONDENT

Date of Decision : 11-09-1959

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Land Revenue Act, 1901 — Section 15, 221, 224

Citation : (1960) 30 AWR 435

Hon'ble Judges : D.S. Mathur, J

Bench : Single Bench

Advocate : Ganesh Prasad, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

D.S. Mathur, J.—This is a petition under, Article 226 of the Constitution of India by Ram Dular Singh for the issue of a writ of certiorari to quash the orders dated 21-1-57 and 17-2-1956 of the Commissioner, Faizabad Division, Faizabad and the Naib Tahsildar, Amethi, District Sultanpur, respectively.

2. The important question of law raised in the present writ petition is whether the Naib Tahsildar, Amethi, Respondent No. 2, had the jurisdiction u/s 12 of the UP Agricultural Tenants (Acquisition of Privileges) Act, 1949, to cannot or modify a declaration granted u/s 6 of the Act.

3. The material facts of the case as they appear from the documents on record are that the plots in dispute were under an oral agreement mortgaged with Pudai Singh, grandfather to the present Petitioner, and Mata Bux Singh, Respondent No. 3, had them redeemed on payment of the mortgage money. Pudai Singh and Ram Dular Singh Petitioner were recorded in village papers as hereditary tenants of these plots. Such an entry continued upto 1357F for a total period of 28 years and it was from 1358F, after the mortgage money had been paid, that the possession of Mata Bux Singh, Respondent No. 3, was entered in village records.

Pudai Singh and Ram Dular Singh had deposited ten times the rent and secured a Bhumidhari Sanad with regard to the plots. After the redemption of mortgage Mata Bux Singh moved an application for the correction of entries in village records which was enquired into by the Nyaya Panchayat but the order passed by the Nyaya Panchayat was set aside by the Sub Divisional Officer, Ameihi. It was then that Mata Bux Singh moved an application u/s 12 of the UP Agricultural Tenants (Acquisition of Privileges) Act, 1949, before the Naib Tahsildar, Amethi for the cancellation of the Bhumidhari Sanad dated 5-6-1951 granted to Pudai Singh and Ram Dular Singh. The Naib Tahsildar cancelled the Sanad of the Petitioner under his order dated 17-2-1956, Annexure "2" to the Petitioner's affidavit. The Petitioner appealed against the order before the Commissioner, Respondent No. 1, but he dismissed the appeal on 2-1-1957 under his order which is Annexure "3" to the affidavit,

4. u/s 12 of the Agricultural Tenants (Acquisition of Privileges) Act, 1949, a declaration granted u/s 6, i.e. the Bhumidhari Sanad, can be cancelled or modified by the Assistant Collector and an appeal against an order passed by the Assistant Collector lies to the Commissioner. The term "Assistant Collector" has been defined in Section 2(a) of the Act as a person authorised by the State Government to exercise the powers of an Assistant Collector under this Act. The State Government has laid down in Rule 4 of the UP Agricultural Tenants (Acquisition of Privileges) Rules that every Assistant Collector appointed under the UP Land Revenue Act, 1901, shall exercise the powers of an Assistant Collector under the Act within the area of his jurisdiction or where so directed, by the Collector in such area as may be allotted to his charge. Consequently, any Assistant Collector duly appointed under the UP Land Revenue Act can exercise the powers of an Assistant Collector under the UP Agricultural Tenants Acquisition of Privileges) Act, 1949, within the area of his jurisdiction. It was under Notification No. 3736(2) 1-A-414-53 dated 6-6-1953 that all Tahsildars were appointed ex-officio Assistant Collectors of the First Class u/s 15 read with Section 221 of the UP Land Revenue Act. Similarly, under Notification No. 3716 (4)/1-A-414 53 dated 6-6-1953, all Naib Tahsildars were appointed ex officio Assistant Collectors of the second class u/s 15 read with Section 221 of the UP Land Revenue Act. The question which automatically arises is whether these notifications can be considered valid and if the powers of Assistant Collectors were duly conferred on these officers.

5. Section 15 of the UP Land Revenue Act authorises the State Government to appoint to each district as, many persons as it thinks fit to be Assistant. Collectors of the first or second class and Section 221 authorises the State Government to empower persons by name, or classes of officials generally by their official titles, to exercise powers under the Act. These two sections are of a general nature and can empower the State Government to confer the powers of Assistant Collector first or second class on any person, or any class of officials generally, by their official titles, but these powers have been restricted by Section 224 of the Act. Section 224 lays down that the State Government may

confer on any Tahsildar all or any of the powers of an Assistant Collector of the second class and on any Naib Tahsildar all or any of the powers of a Tahsildar. Section 224 was amended by the UP Land Reforms (Amendment) Act of 1958 which came into force from 6-11-1958 and thereby the powers of an Assistant Collector of the First or Second class could be conferred on Tahsildars. Section 224 was not amended so as to authorise the conferment of powers of an Assistant Collector on Naib Tahsildars. In other words, therefore, Section 224 is a bar to the conferment of powers of an Assistant Collector of the second class on Naib Tahsildars. They can, of course, be conferred with all or any of the powers of a Tahsildar as laid down in the various provisions of the UP Land Revenue Act. An Assistant Collector has to discharge many judicial acts while a Tahsildar is mostly concerned with the collection and realisation of land revenue.

6. An important rule of interpretation of statutes is that the Courts should give that interpretation to an enactment which would harmonise the various provisions of the Act, so that no provision may become redundant or self-contradictory but where it is not possible to harmonise the various sections, the latter section shall prevail over the former. If an attempt is made to harmonise Sections 221 and 224 of the UP Land Revenue Act, no other opinion can be formed except that the State Government cannot confer the powers of an Assistant Collector of the second class on Naib Tehsildars. This view is confirmed by the intention of the legislature while amending the UP Land Revenue Act under the above Act of 1958. When Section 224, was amended a provision was made for the conferment of powers of the Assistant Collector of first class on Tahsildars but intentionally the provision with regard to Naib Tahsildars was left untouched.

7. Further, the Amending Act of 1958 was not given a retrospective effect and consequently it was from the date of commencement of the Amending Act that Tahsildars could be conferred with the powers of an Assistant Collector of the first class.

8. To sum up under the provisions of the UP Land Revenue Act, Naib Tahsildars could not, in their official capacity, be conferred with the powers of an Assistant Collector of the second class and they cannot consequently be deemed to have been validly appointed Assistant Collector of the second class under the Act. When Naib Tahsildars were not Assistant Collectors of the second class under the Act, they could not be Assistant Collectors as contemplated by the UP Agricultural Tenants (Acquisition of Privileges) Act, 1949 and they could not have the power u/s 12 of the Act to cancel or modify the Bhumidhari Sanad already granted by an Assistant Collector. The order dated 17-2-1956 of the Naib Tahsildar whereby he cancelled the Bhumidhari Sanad was, therefore, beyond his jurisdiction and the order of the Commissioner dated 211-1957 is also illegal in view of the fact that he did not at all consider the question of jurisdiction of the Naib Tahsildar and wrongly maintained the order of the Naib Tahsildar.

9. The petition is hereby allowed and it is ordered that a writ of certiorari be

issued to quash the above orders of the Commissioner, Faizabad Division, Faizabad and the Naib Tahsildar, Amethi, district Sultanpur. The Bhumidhari Sanad already granted to the Petitioner shall continue to be valid unless cancelled or modified in accordance with law. Costs on parties.