

(2011) 09 AHC CK 0110
In the Allahabad High Court
Case No : C.M.W.P. No. 29913 of 2003

Ram Lal and others

APPELLANT

Vs

Additional Commissioner, Chitrakoot Dham Mandal, Banda
and others

RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 198(4)

Citation : (2012) 1 AWC 935 : (2011) 114 RD 683

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sibghat Ullah Khan, J.—Heard learned Counsel for the petitioner and learned standing Counsel for respondents 1 to 3. In spite of sufficient service no one has appeared on behalf of respondents 4 to 26, the complainants.

2. The first order challenged through this writ petition is contained in Annexure-1 to the writ petition passed in case No. 182 of 1999 u/s 198(4) of U.P. Zamindari Abolition and Land Reforms Act - Hari Kishore and others v. Ramrati and others. The order has been passed by Dr. Rakesh Kumar, District Magistrate, Ma-hoba on 23.7.1999. Pattas granted to the ancestors of the petitioners have been cancelled on the ground that on personal inspection by the D.M. and on inquiry from the villagers it was found that the allottees were not residing in the village concerned i.e. Bilrahi.

3. It is shocking to note that in the impugned order even date of allotment has not been given. Such an order has been passed by District Magistrate who holds a Doctorate degree. Against the order passed by the D.M. dated 23.7.1999 revision No. 20/382 of 1998-99 was filed by the petitioners. Additional Commissioner, Chitrakoot Dham, Mandal Banda dismissed the revision on 24.6.2003 hence this writ petition.

4. Before the District Magistrate none of the petitioners had appeared. The D.M. in his order mentioned that notices sent to the petitioners returned with the endorsement that they were not residents of the village. No further attempt was made to serve the notices upon them. In the judgment of the Additional Commissioner it is mentioned that petitioners asserted that pattas were granted in the year 1372 fasli (1964-65 A.D). In para-4 of the writ petition it has been mentioned that pattas were granted in July, 1959. In grounds of Revision filed before the Additional Commissioner it was stated that pattas were granted in 1957. Revision was dismissed on 24.6.2003. However, one revision i.e. revision No. 197 of 1998-99 filed by one of the allottees i.e. Smt. Ram Rati against the same order of the D.M. was allowed by Additional Commissioner, Administration, Chitrakoot Dham, Mandal Banda on 22.9.1999 copy of which is Annexure-5 to the writ petition. In the said order it was held that complaint was filed beyond time.

5. What has been done in the instant case is pure massacre of justice. Allotment has been cancelled in the proceedings initiated after thirty five to forty years. There is no such requirement that after allotment neither the allottee nor his subsequent generations can shift his (their) residence to another village and if they do so allotment would be liable to be cancelled.

6. Writ petition is accordingly allowed. Impugned orders are set aside.