
(2009) 11 AHC CK 0155
In the Allahabad High Court
Case No : Writ Petition No.5947 (M/S) of 2009

Ram Lochan and Another

APPELLANT

Vs

Addl.Commissioner, Devi Patan Mandal, Gonda and Another

RESPONDENT

Date of Decision : 04-11-2009

Acts Referred:

Citation : (2009) 11 AHC CK 0155

Hon'ble Judges : Y.K.Sangal, J

Final Decision : Disposed Of

Judgement

Y.K.Sangal, J.—Heard learned counsel for the petitioners and learned Standing Counsel for the State and perused the record.

2. As per petition's case, Triloki Nath was a recorded tenure holder on the land in dispute along with his brother. He expired. His wife was already expired during his lifetime. Triloki Nath died issue less. He executed an unregistered Willdeed, in favour of the petitioners. Petitioners applied for mutating their names in the revenue record and the Tehsildar vide his order dated 02.06.2006 held the validity of the Will and ordered to mutate name of petitioners and claim of respondent No. 2 was denied. She has claimed herself widow of Triloki Nath. An appeal was filed by the widow against the order passed by the Tehsildar and this appeal was allowed vide order dated 18.08.2007 and it was ordered that respondent No. 2 is widow of Triloki Nath and case of the petitioner was rejected. Against this order, a revision was filed by the petitioners which is pending.

3. Learned counsel for the petitioners argued that revision filed was admitted for hearing vide order dated 11.09.2007 which is still pending and order for summoning the record was also passed. It was further argued on behalf of the petitioners that an application was moved before the revisional court to stay the operation of the order passed by the appellate court but this application was rejected and no stay order was passed, hence this writ petition has been filed. Prayer has been made in this writ petition to issue a direction to the respondent to maintain status quo regarding property in dispute during the pendency of the

revision.

4. Seeing the innocuous prayer, issuing of the notice to the opposite party No. 2 is hereby dispensed with.

5. Undisputedly, revision against the appellate court's order has been admitted for hearing and it is still pending before the revisional court. Order of summoning the record has already been passed. Learned counsel for the petitioners argued that without giving any reason, application of the petitioners for order of maintaining status quo has been rejected by the revisional court. Copy of the order passed by the revisional court is already available on record as Annexure No. 1. No reason has been assigned by the revisional court why he held that there is no ground to stay the operation of the impugned order. It is wellsettled that an order having civil consequences, even though passed by the administrative authority must contained reasons so as to enable the aggrieved party to challenge the reasoning of the administrative authority in writ jurisdiction, it is the reasoning which has to be decided. In the absence of reasoning, no foundation can be laid by the petitioners and only arguments remains that the order is based on the nonapplication of mind. In 1983 (1) LCD 109, Moolchand Yadav v. Raja Buland Sugar Company, this Court has held that during the pendency of the appeal, granting the stay order is required because, if such order is not granted serious civil consequences may fall. In the present case, admittedly, revision has been admitted and is pending before the revisional court. In these circumstances, it was proper that during the pendency of the revision, operation of the order passed by the appellate court should have been kept in abeyance.

6. Accordingly, the writ petition is finally disposed of with the direction that during the pendency of the revision, impugned order before the revisional court, passed by the appellate court shall remain in abeyance. Further the revisional court shall decide the revision within the two months from the date of production of certified copy of this order before it. However, if it is found that petitioners are trying to delay the disposal of the revision, the revisional court will be free to pass necessary orders against them.

7. Copy of this order be supplied to the learned counsel for the petitioners on payment of usual charges and to the learned Standing Counsel free of cost within three days.