
(2015) 03 AHC CK 0058
In the Allahabad High Court
Case No : Writ-C No. 7831 of 2015

Ram Sewak and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 122-B (4-F), 198(4)

Citation : (2015) 127 RD 685

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : S.K. Dixit, for the Appellant; Brij Kumar Yadav, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar Mishra, J.

1. Heard learned Counsel for the petitioners and Shri Brij Kumar Yadav, who has accepted notice on behalf of the respondent No. 7, Land Management Committee. The writ petition has been filed challenging an order dated 19.8.2014 passed by the Collector Kanpur Dehat on an application filed by the petitioners. By this order, the application/representation of the petitioners has been dismissed.

2. The facts of the case briefly stated are that suo motu proceedings under section 198(4) of the Act were drawn against the petitioners being Case No. 204 of 2003-04. The Collector Kanpur Dehat by his order dated 3.6.2005 set aside the allotment of plot Nos. 248-Gha area 0.205 hectares and plot 222-Ga area 0.205 hectares situated in Mauza Juriya, Tehsil Derapur and directed that the land in question be recorded in the name of the Forest Department as it was prior to the allotment.

3. Against this order passed in proceedings under section 198(4) the petitioners

preferred a revision before the Collector, who by his order dated 15.9.2005 allowed the revision and remanded back the matter to the collector for taking proceedings under appropriate provision of law. This order of remand was passed on the ground that the petitioners-revisionists had been granted the benefit of section 122-B (4-F) of the U.P.Z.A. and L.R. Act on the land in question and on its basis the petitioners was recorded thereon which could not be set aside in proceedings under section 198(4).

4. It appears that thereafter the petitioners made a representation to the Collector. In this representation it was stated that the petitioners had been allotted the land in question by the Land Management Committee vide its resolution dated 24.9.1992 and that the petitioners are in possession whereof ever since. It was further stated that the Forest Department is trying to dispossess the petitioners from the land allotted to them. It would, therefore, prayed that the Forest Department be restrained from interfering in the possession of the petitioners over the land allotted to them.

5. It appears that since this representation was not disposed of, a writ petition was filed before this Court which was disposed of with a direction to the Collector to pass appropriate orders on the representation made by them. When this direction was not complied the petitioners preferred a contempt application. In pursuance of the orders passed in the contempt petition the representation has been finally decided by the order impugned.

6. The Collector has rejected the representation of the petitioners on the ground that they are claiming benefit of the provisions of section 122-B (4-F) which is not available to them since the land did not vest in the Gaon Sabha and was recorded in the name of the Forest Department. The benefit of section 122-B (4-F) is available to a member of the scheduled caste qua property recorded in the name of the Gaon Sabha.

7. The submissions made by the learned Counsel for the petitioners appear to be confusing. He has submitted that the petitioners are in possession of the land in question since long and, therefore, entitled to the benefit of section 122-B (4-F). On the contrary the representation made and the orders passed in the proceedings under section 198(4) of the Act indicate that the land in question had been allotted to the petitioners. Learned Counsel for the petitioners has not able to state clearly as to whether they are claiming right, title or interest to the land in question merely on the basis of their possession and the protection provided by section 122-B (4-F) or they claim to be in possession of the land in question in pursuance of the allotment made in their favour. Although this issue has not been clarified, however, in either contingency the petitioners are not entitled to any relief.

8. In case, the petitioners" claim to be allottees of the land in question, the allotment was per se illegal inasmuch as it was not open for the Gaon Sabha lease land for agricultural purposes which land was recorded in the name of the

Forest Department being reserved as forest land.

9. Even if it is assumed that the case of the petitioners is one of possession alone, and that they are entitled to the benefit of section 122-B (4-F) the petitioners are not entitled to any relief. The land in question is admittedly not recorded in the name of the Gaon Sabha. The protection provided to a member of scheduled caste by section 122-B (4-F) pertains only to the possession over land belonging to the Gaon Sabha. Since the land in question was recorded in the name of Forest Department even this benefit is not available to the petitioners.

10. Accordingly and for this reason given above, I find no illegality in the order impugned which does substantial justice between the parties. The writ petition therefore, lacks merit and is, accordingly dismissed.