
(2013) 12 AHC CK 0136
In the Allahabad High Court
Case No : Writ-C No. 65984 of 2013

Ramadhar

APPELLANT

Vs

Addl. Commissioner (Admn.) and Others

RESPONDENT

Date of Decision : 10-12-2013

Acts Referred:

Citation : (2014) 122 RD 443

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri Manish, learned Counsel for the petitioner, Sri B.P. Singh Kachhawah for respondents Nos. 5 to 8 and the learned Standing Counsel for respondents Nos. 1, 2 and 3. Notice has been accepted by Sri Manoj Kumar Yadav for the respondent No. 4-Gaon Sabha. A supplementary-affidavit has been filed today by Sri Manish bringing on record the measurement report in relation to the proceedings u/s 28 of the U.P. Land Revenue Act, 1901 as also the proceedings relating to section 41 of the 1901 Act in respect of the holding in question.

2. The background of the dispute is that an application for correction of map was filed by the contesting respondents u/s 28 of the 1901 Act on the ground that the map incorrectly portrays the area of plot No. 578, i.e. their holding by 0.12 acres. The contention appears to be that the area has not been correctly indicated on account of an increase of 0.05 acres having been shown in excess over plot Nos. 576 and 0.07 acres in excess over plot No. 590. Plot No. 590, according to the revenue records, is entered as Banjar land which vests in the Gaon Sabha. The petitioner is claiming occupation over the said land on the ground that his constructions continue to exist along with other constructions and in such circumstances proceedings section 28 of the 1901 Act could not have been proceeded without making the petitioner a party to the same. Accordingly, when the order came to be passed u/s 28 of the 1901 Act in favour of the

respondents, the petitioner was, admittedly, not a party to the said proceedings. He, therefore, filed a restoration application which has been dismissed and then filed a revision which has also been dismissed.

3. Simultaneously, it also appears that after the orders u/s 28 of the 1901 Act were passed, proceedings for demarcation u/s 41 of the 1901 Act have been initiated and orders have been passed against which a revision has been filed and the said matter is still pending at the revisional stage.

4. It is at this stage that the present writ petition has been filed by the petitioner contending that the petitioner is now directly affected on account of the proceedings u/s 41 of the 1901 Act which have been initiated on the strength of the orders passed u/s 28 of the proceedings. It is for this reason that the present writ petition has been filed questioning the correctness of the orders of the proceedings u/s 28 of the 1901 Act for correction of map.

5. The contention of Sri Manish has been through out that the petitioner is in occupation over plot No. 590. The correction of map which has been made is totally unjustified and it prejudices the cause of the petitioner.

6. Sri Kachhawah, on the other hand, submits that the petitioner has no right, title or interest over the land in dispute and even otherwise any measurement over Gaon Sabha land does not affect any right of the petitioner so as to contest the map correction proceedings on the strength of mere occupation over the land in question.

7. Learned Standing Counsel has also supported the impugned orders and it is urged that the petition lacks merit and deserves to be dismissed.

8. Having heard the learned Counsel for the parties, the position that emerges is that the dispute relates to correction of map of plot No. 590 which, admittedly, is recorded as Banjar land of the Gaon Sabha. The petitioner is not the recorded tenure-holder of the said land. Apart from this, the measurements, which have been carried out and which have been reflected in the reports, are in relation to the excess of area shown in the map over plot No. 590 and not of any personal holding of the petitioner.

9. The petitioner is claiming occupancy over the said land on the ground that he has raised constructions. This right, which is being claimed by the petitioner, has to be established by filing a suit and map correction proceedings nowhere concern the petitioner's title which cannot be gone into in such proceedings. Thus, the cause of prejudice shown by the petitioner cannot be remedied by moving a restoration application in the proceedings u/s 28 of the 1901 Act and the petitioner may be well advised to file a suit for redressal of his grievances either against the Gaon Sabha or the contesting respondents for the protection of his rights, if any, in accordance with law.

10. I am, therefore, for the foregoing reasons not inclined to interfere with the impugned orders as they do not suffer from any infirmity much less a legal

infirmity. The petition lacks merit and is accordingly dismissed.