

(2020) 01 UK CK 0012

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1187, 1214 Of 2013

Randhir Singh

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 03-01-2020

Acts Referred:

Uttar Pradesh Zamindari Abolition And Land Reforms Act, 1950 — Section 122B(4F)
Uttar Pradesh Consolidation Of Holdings Act, 1953 — Section 4

Citation : (2020) 01 UK CK 0012

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Parikshit Saini, Anurag Bisaria

Final Decision : Disposed Of

Judgement

Sudhanshu Dhulia, J

1. The petitioner before this Court is a member of scheduled caste community and being a landless agricultural labourer, he was given a land out of

the surplus land of the State as per the provision contained in Section 122-B (4-F) of the Uttar Pradesh Zamindari Abolition and Land Reforms Act,

1950 (from hereinafter referred to as the "Act").

2. Sub-section (4-F) of Section 122-B of the Act reads as under:-

"122-B. Powers of the Land Management Committee and the Collector.-

(4-F) Notwithstanding anything in the foregoing sub-sections, where any agricultural labourer belonging to a Scheduled Caste or Scheduled Tribe is in

occupation of any land vested in a Gaon Sabha under Section 117 (not being land mentioned in Section 132) having occupied it from before May 13,

2007 and the land so occupied together with land, if any, held by him from

before the said date as bhumidhar, sirdar or asami, does not exceed 1.26 hectares (3.125 acres), then no action under this section shall be taken by the Land Management Committee or the Collector against such labourer, and he shall be admitted as bhumidhar with non-transferable rights of that land under Section 195 and it shall not be necessary for him to institute a suit for declaration of his rights as bhumidhar with non-transferable rights in that land.

Explanation.- The expression "agricultural labourer" shall have the meaning assigned to it in Section 198.

3. The petitioner was given this benefit being in occupation of this land prior to 03.06.1995. Thereafter regarding the same village, a notification was

issued under Section 4 of the Uttar Pradesh Consolidation of Holdings Act, 1953. The Consolidation Officer who was the first officer to hear such

grievance came to the conclusion that the land has been allotted in favour of the petitioner being a member of scheduled caste community and he is

liable to be given the land. The petitioner was thereafter given bhumidari rights with non-transferable rights on 31.10.2005. However, the order dated

31.10.2005 passed by the Consolidation Officer was challenged in the appeal by the residents of the village, who are not even the members of

scheduled caste community. The appeal of the residents of the village was allowed by the appellate authority vide order dated 25.03.2010 on ground

that neither the said persons nor the concerned Gram Sabha were heard. Thereafter the matter was taken in a revision by the petitioner, which was

dismissed by the revisional authority vide order dated 08.02.2013. Aggrieved, the petitioner has filed the present writ petitions before this Court.

4. After perusing the orders passed by the appellate authority as well as the revisional authority, one thing is clear that both the authorities which have

rejected the claim of the petitioner were primarily of the opinion that principles of natural justice and fair play have not been adopted properly by the

Consolidation Officer and consequently the matter has been remanded back to the Consolidation Officer. This seems to be fair as the Consolidation

Officer must hear the private respondents as well as the concerned Gram Sabha. However, it should be borne in mind by the Consolidation Officer

that under the law, there is a special provision created in favour of the members of the scheduled caste community under sub-section (4-F) of Section

122-B of the Act. The Consolidation Officer before passing any order in the matter shall keep this provision in mind and thereafter pass appropriate orders in accordance with law.

5. Till the matter is decided by the Consolidation Officer, status quo shall be maintained.

6. In view of the above, the writ petitions stand disposed.