

(2014) 02 AHC CK 0262
In the Allahabad High Court
Case No : Misc. Single Case No. 1251 of 2014

Rani Devi and Another	Vs	APPELLANT
Additional Commissioner, Lucknow Division and Others		RESPONDENT

Date of Decision : 27-02-2014

Acts Referred:

Citation : (2014) 122 RD 749

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : Ramendra Shekhar, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Anjani Kumar Mishra, J.—The contesting respondent has filed a suit u/s 229-B for declaration that he is Sarvarakar. The said suit was dismissed by the Trial Court on the finding that this relief cannot be granted by the revenue Court and the suit is therefore not maintainable.

2. It is the admitted case of the petitioner that a civil suit on this issue is pending between the parties. The order of the Trial Court in the suit u/s 229-B dismissing the same as being not maintainable, was challenged by means of revision before the Additional Commissioner. During the pendency of this revision, an application was filed by the petitioner seeking impleadment on the ground that she is recorded over the property in dispute and is in possession thereof and therefore is necessary party. This impleadment application has been rejected by means of the order impugned saying that there is nothing on record to show that the petitioner has any interest in the property which is the subject of the suit u/s 229-B and also revision before the Additional Commissioner.

3. The submission of the learned Counsel for the petitioner is that since the name of the petitioner is recorded in the Khatauni and she is in possession thereof she was a necessary party to the proceedings and therefore the revisional Court has erred in rejecting her impleadment application.

4. I have considered the submissions made by the learned Counsel for the petitioner.

5. In case, as alleged, the petitioner is recorded over the property in dispute her title or her possession cannot be disturbed on the basis of a decree to which she is not a party. As regards the issue of who is Sarvarakar, this dispute between the parties is pending consideration before the civil Court.

6. I therefore see no illegality in the order impugned. The writ petition is accordingly dismissed.