
(2005) 07 AHC CK 0151

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 33779 of 2002

Ranvir Singh and Smt. Kamla Devi

APPELLANT

Vs

The Board of Revenue

RESPONDENT

Date of Decision : 04-07-2005

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 132, 132(VI), 161

Citation : (2005) 4 AWC 3315 : (2005) 2 RD 220

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Advocate : Vivek Mishra, for the Appellant; Anupam Kulshreshtha, K.R. Sirohi and Anuj Kumar and S.C., for the Respondent

Final Decision : Dismissed

Judgement

S.U. Khan, J.—The question involved in this writ petition is as to whether Gaon Sabha land reserved for some public purpose (digging in the instant case) can be exchanged with Bhumidhari land of a private tenure holder or not.

2. Land Management Committee, Mustafabad Tehsil and district Muzaffar Nagar passed a resolution on 14.1.2000 for exchange of its land reserved in revenue records for digging (Khudai) comprised in plot No. 506 and 507 area 0.092 hectares and 0.010 hectares respectively with the Bhumidhari land of Smt Kamla Devi comprised in plot No. 111 area 0.113 hectares. In the resolution, it was stated that land of plot No. 111 was more appropriate to be used as Rasta and if the said plot was transferred to Gaon Sabha then it would serve the purpose of connecting Rasta with Chak marg comprised in plot No. 110. S.D.O/ Deputy Collector, Sadar Muzaffar Nagar by order dated 16.3.2000, allowed the exchange on the ground that it was in public interest. The said order was passed in case No. 8 of 2000, Land Management Committee, Mustafabad v. Kamla Devi.

3. Thereafter Tehsildar filed a report dated 29.5.2000 to the effect that Kamla Devi had sold plot No. 111 and the name of the purchaser (Ranvir Singh) had

been mutated in the revenue records hence exchange order deserved to be set aside. S.D.O/ Deputy Collector, Sadar Muzaffar Nagar accepted the report of Tehsildar and set-aside its earlier order dated 16.3.2000 as well as resolution of Land Management Committee dated 14.1.2000 by his order dated 31.5.2000. Thereafter Kamla Devi and Ranvir Singh, who had purchased the land from her, filed restoration applications for setting aside the order dated 31.5.2000. The restoration applications were rejected by S.D.O on 31.1.2001.

4. Against the said order two revisions being revision No. 52 and 53 of 2000-01 were filed. The revisions were allowed by Additional Commissioner (Administration), Saharanpur division, Saharanpur on 11.6.2002 and orders of the trial court dated 31.5.2000 and 31.1.2001 were set aside. Against the said order two revisions being revision No. 69 and 70 of 2001-02 were filed before board of Revenue, Allahabad. The said revisions were allowed by Board of Revenue on 2.8.2002 (even though in the order word disposed of was used) hence this writ petition.

5. As far as sale of the property by Smt. Kamla Devi in favour of Ranveer Singh, petitioner No. 1 is concerned, in this regard it has been mentioned in para-13 of rejoinder affidavit that sale deed dated 28.1.2000 executed by Kamla Devi in favour of Ranveer Singh has been cancelled by civil court on 30.5.2000.

6. The Board of Revenue has held that admittedly consolidation operation had taken place in the village in dispute and plot Nos. 506 and 507 were entered as Gaon sabha land meant for digging. The Board of Revenue placing reliance upon an authority of this Court reported in 1971 R.D. 466 Lalji v. Board of Revenue has held that public utility land reserved as such in consolidation operation cannot be exchanged u/s 161 of U.P.Z.A.&L.R. Act with the Bhoomidhari land of private tenure holder.

7. It has been held by this Court in G.S. v. D.D.C. 1990 A.L.J. 366 that land reserved for artisans to dig out the earth for preparing earthen ware is also a public purpose.

8. Learned counsel for the petitioner has very vehemently argued that the authority of Lalji v. Board of Revenue does not lay down correct law as u/s 161 of U.P.Z.A.&L.R. Act it is specifically provided that Gaon Sabha land may be exchanged with the Bhoomidhari land of a private person.

9. I do not see any reason to doubt the correctness of the view taken in Lalji's case and refer the same to Larger Bench. In the said authority it has clearly been held that "the Gaon sabha has no authority in law to divert the use of land earmarked for a public purpose."

10. u/s 132(VI) of U.P.Z.A.&L.R. Act it has been provided that Bhoomidhari rights shall not accrue in any land set apart for public purpose under U.P. Consolidations of Holdings Act. It is correct that u/s 161 of U.P.Z.A.&L.R. Act exchange of Gaon Sabha land is permissible. However, reading the said section

alongwith Section 132 U.P.Z.A.&L.R. Act makes it quite clear that such exchange is permissible only when Gaon Sabha land sought to be exchanged is not covered by Section 132 of U.P.Z.A.&L.R. Act.

11. Accordingly, there is no error in the judgment of Board of Revenue holding that as the land comprised in plot Nos. 506 and 507 was reserved for public purpose (digging) hence exchange was not permissible.

12. Writ petition is therefore dismissed.