
(2014) 07 AHC CK 0311
In the Allahabad High Court
Case No : Writ -B No. 34667 of 2014

Ruby Kesharwani

APPELLANT

Vs

Board of Revenue

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Uttar Pradesh Land Revenue Act, 1901 — Section 34

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 157-A, 167

Citation : (2014) 124 RD 339

Hon'ble Judges : Ran Vijai Singh, J

Bench : Single Bench

Advocate : R.S. Parihar, Advocate for the Appellant; Diwakar Singh, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Ran Vijai Singh, J.—Heard Sri R.S. Parihar, learned Counsel for the petitioner, learned Standing Counsel appearing for the State-respondents and learned Counsel for the Gaon Sabha. The petitioner happens to be the daughter of late Kamal Chandra Kesharwani.

2. This writ petition has been filed with the prayer for issuing a writ of certiorari quashing the order dated 20.8.2013 passed by the Board of Revenue in revision No. 147 (LR) of 2001-02 (Amar Nath v. Bhal Chandra and others), order dated 27.4.2002 passed by the Sub Divisional Officer, Phoolpur, Allahabad in Appeal No. 70/50/20 (Ram Pratap v. Kamal Chandra) and order dated 28.4.1986 passed by the Naib Tehsildar in mutation case No. 511.

3. Vide order dated 28.4.1986, the application filed by the father of the petitioner u/s 34 of the U.P. Land Revenue Act, 1901 was allowed. The mutation was sought on the ground that the father of the petitioner had purchased 4 bigha 5 biswa and 2 biswansi land of plot No. 9 from one late Ram Pratap. On the aforesaid application, notices were issued, but no objection was filed and the statement was given by the marginal witnesses of the sale deed that the vendor

did not belong to scheduled caste. Further, the land, which had been purchased, is not part of the surplus land under the U.P. Imposition of Ceiling on Land Holdings Act, 1960 (in short, "the Act"). The mutation application allowed on 18.4.1986 by the Naib Tehsildar. Against the aforesaid order, a time barred appeal was filed before the Sub Divisional Officer in the year 2002, which was numbered as Appeal No. 70/50/20 (Ram Pratap v. Kamal Chandra), in the appeal, the ground was taken that the vendor belongs to scheduled caste and the transaction is hit by the provisions contained u/s 157-A of the U.P. Zamindari Abolition and Land Reforms Act, 1950 and in view of section 167 of the Act, the land had vested in the State. The appeal was allowed and the matter was remitted back before the Naib Tehsildar for fresh decision after hearing both the parties. Challenging this order, the petitioner filed revision No. 147 (LR) of 2001-02 (Amar Nath v. Bhal Chandra and others). It appears, late Ram Pratap had executed various sale deeds and three revisions were filed. All the revisions were numbered as revision Nos. 146, 147 and 148 (LR) of 2001-02 had been decided by the common order dated 20.8.2013. The petitioner's revision was numbered as revision No. 147 of 2001-02. The Revisional Court dismissed the revisions observing that no prejudice has been caused at this stage to the parties as the matter has to be heard afresh on merit.

4. Learned Counsel for the petitioner, while assailing these orders, contends that the Appellate Court as well as Revisional Court both have erred in dismissing the appeal and revisions. In his submissions, the vendor had filed a highly time barred appeal after 16 years of the impugned order in the appeal, which could not be condoned without there being sufficient explanation, which is absolutely lacking. He also submits that at the appellate stage, the other side has given a U-turn by stating that he does not belong to scheduled caste, whereas he himself has executed the sale deed knowing it well that he is scheduled caste.

5. Learned Counsel for the petitioner may be right in his submissions, but nothing has been decided as yet. The matter has only been remanded before the Naib Tehsildar, who will look into the matter. The vendor belongs to scheduled caste or not, this is question of fact which can be easily seen by the Court of Naib Tehsildar. I do not find any error in the impugned orders. The writ petition is hereby dismissed. However, it is observed that in case the petitioner's name is still recorded in the revenue records, the revenue entries as on date in the revenue records be maintained till the final decision of the case. It is further provided that in the meantime, no further third party right shall be created over the land in dispute.