(2012) 09 AHC CK 0180

In the Allahabad High Court

Case No : Writ. B No. 46535 of 2012

Shankar Lal	APPELLANT
Vs	
Board of Revenue and Others	RESPONDENT

Date of Decision : 13-09-2012

Acts Referred:
Uttar Pradesh Land Revenue Act, 1901 — Section 41

Citation : (2012) 09 AHC CK 0180

Hon'ble Judges : Sanjay Misra, J

Final Decision : Dismissed

Judgement

Sanjay Misra, J.—Heard Sri R.C. Singh holding brief of Sri Vinod Kumar Yadav, learned Counsel for petitioner and learned Standing Counsel on behalf of respondents No. 1 to 3, Notice need not be issued to the respondents No. 4 to 8 in view of the order being passed herein.

2. According to learned Counsel for petitioner, the respondents Mahabir, Mahesh Prasad and Brij Lal filed an application under section 41 of the U.P. Land Revenue Act (for short the Act'') before the Sub Divisional Officer, Karchhana district Allahabad wherein the petitioner was arrayed as defendant No. 3.

3. The Sub Divisional Officer, Karchhana district Allahabad, invited objections and issued notice to the petitioner whereupon the petitioner had filed his objection dated 3.12.2003 (Annexure 8 to the writ petition). The report of the Revenue Inspector was summoned by him, which was received on 29.3.2003 wherein the Revenue Inspector had given notice to all the parties and had recorded that the plaintiff as well as the defendants were present and there were several other persons of the village also present at the time of survey. The Revenue Inspector had thus prepared his survey report dated 15.2.2003 (Annexure 4 to the writ petition) wherein he had stated to have started the proceedings of survey by fixing points and had given his report thereupon.

4. The Sub Divisional Officer, Karchhana district Allahabad, in Case No. 73 of

200405, Mahabir and others v. Ram Sajeevan and others, considered such report of the Revenue Inspector and has recorded a finding that the survey had been rightly done on the basis of fixed points A, B & C and the Revenue Inspector had given notice to all the parties, and conducted the survey in their presence. He therefore, confirmed the report of Revenue Inspector by his order dated 11.1.2005.

5. Feeling aggrieved, the petitioner filed Appeal No. 14/61200506, Shankar Lal v. Mahabir Singh and others, before the Additional Commissioner (Administration) Allahabad Division Allahabad, who considered the time barred appeal. However, he found that the Sub Divisional Officer, Karchhana district Allahabad has rightly considered the survey report of the Revenue Inspector and confirmed it.

6. The petitioner feeling aggrieved, there against filed Revision No. 4211/LR/200708, Shankar Lal v. Mahabir Singh and others before the Board of Revenue, which revision has been dismissed by the order dated 11.7.2012 passed by the Board of Revenue wherein the orders passed by the Sub Divisional Officer, Karchhana district Allahabad and the Additional Commissioner (Administration) Allahabad Division Allahabad have been confirmed.

7. Learned Counsel for petitioner has argued that the proceedings were conducted ex parte against the petitioner. In so far as this submission is concerned, there is a clear finding recorded in the survey report of the Revenue Inspector that all the parties were given notice and the survey was conducted in presence of plaintiff, defendants and other persons of the village. In view of that finding recorded in the survey report and in the absence of any contrary cogent evidence available on the record of this writ petition, the submission of learned Counsel for petitioner cannot be accepted. Since the petitioner was noticed, the impugned survey report cannot be held to be ex parte against him.

8. In so far as the impugned order dated 11.1.2005 of the Sub Divisional Officer, Karchhana district Allahabad is concerned the petitioner had filed his objection which has been filed as Annexure 8 to this writ petition. Therefore, the order of the Sub Divisional Officer was also not an exparte order. So far as the appellate order dated 27.2.2007 of the Additional Commissioner (Administration) Allahabad Division Allahabad as also the revisional order dated 11.7.2012 of the Board of Revenue are concerned, the appeal and revision were filed by the petitioner and they have affirmed the survey report of Revenue Inspector and have found that there is no error in conducting survey and making the survey report by the Revenue Inspector. As such, in these summary proceedings under section 41 of the Act, it cannot be held that the petitioner has been deprived of any opportunity of hearing, particularly when he was noticed by the Revenue Inspector, his objection was considered by the Sub Divisional Officer and his own appeal has been dismissed and his own revision has also been dismissed. There is no error in the impugned orders and the impugned orders do not require any interference under Article 226 of the Constitution of India.

9. The writ petition is accordingly dismissed.

10. No order is passed as to costs.

