(1999) 03 AHC CK 0105

In the Allahabad High Court

Case No : C.M.W.P. No. 12636 of 1999

Shri Ram — APPELLANT

Vs

Board of Revenue, U.P., Lucknow and others — RESPONDENT

Date of Decision : 31-03-1999

Acts Referred:

Uttar Pradesh Land Laws (Amendment) Act, 1997 — Section 10
Uttar Pradesh Land Revenue Act, 1901 — Section 218, 219
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 333A

Citation : (1999) 2 AWC 1718 : (1999) RD 467

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : Anupam Kulshreshtha, for the Appellant;

Final Decision : Allowed

Judgement

V.M. Sahai, J.—Heard learned counsel for the petitioner and the learned standing counsel.

2. The impugned order dated 11.1.1999 has been passed by the Board of Revenue which has been filed as Annexure 2 to this writ petition without giving any opportunity of hearing to the petitioner. The U. P. Land Laws (Amendment) Act. 1997 (U. P. Act No. 20 of 1997) came into force on 18.8.1997 and Section 218 was omitted from the Land Revenue Act and Section 219 was substituted in the Act which gave power to the Board of Revenue or the Commissioner or the Additional Commissioner or the Collector, etc. to decide the revisions. The effect of this amendment was that w.e.f, 18.8.1997 the Commissioner or the Additional Commissioner had power to decide the revision. The revision was decided by Additional Commissioner by his order dated 16.11.1998 under the amended Section 219 which came into force on 18.8.1997. The Board of Revenue has remanded the matter to the Additional Commissioner or deciding it afresh as revision was filed before the Additional Commissioner before coming into force of U. P. Act No. 20 of 1997 were to be decided under the old Section 218 of the

Land Revenue Act. This view of the Board of Revenue does not appear to be correct as in the amending Act itself, a transitory provision has been given u/s 10 which is being quoted below :

"Notwithstanding anything contained in this Act alt cases referred to the Board u/s 218 of the U. P. Land Revenue Act, 1901, or u/s 333A of Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 as they stood immediately before the commencement of the Act and pending before the Board on the date of such commencement shall continue to be heard and decided by the Board as if this Act has not been enacted."

3. In view of this transitory provision, only references which were pending before the Board of Revenue were saved and revisions pending before the Commissioner or the Additional Commissioner were not saved, and as such, the Commissioner or the Additional Commissioner ought to have decided the revisions pending before them on 18.8.1997 u/s 219 of the Act. Under the circumstances, the judgment passed by the Board of Revenue on 11.1.1999 cannot be sustained.

4. The writ petition succeeds and is allowed. The order dated 11.1.1999 passed by the Board of Revenue (Annexure-2 to the writ petition) is set aside. The petitioner is directed to move an application before the Board of Revenue about maintainability of the revision which shall be decided expeditiously, in accordance with law.

5. There shall be no order as to costs.