

(2010) 04 AHC CK 0305
In the Allahabad High Court
Case No : C.M.W.P. No. 23183 of 2010

Smt. Asgari and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 27-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 133
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 198(4)

Citation : (2010) 4 AWC 3922

Hon'ble Judges : Amitava Lala, Acting C.J.; Amreshwar Pratap Sahi, J

Bench : Division Bench

Judgement

Amitava Lala, A.C.J. and Amreshwar Pratap Sahi, J.—The writ petitioners are claiming to be the members of Nagla Islampur village Kosi Dehat, Tehsil Chata district Mathura. According to the petitioners they want to protect the residents and the agriculturists of the nearby area of their public utility land, i.e., public way, graveyard, brick kiln, pond, school and occupied abadi.

2. The State, Land Management Committee and the private respondents are present before us.

3. The petitioners have also said that the allotment are being made upon being influenced by the representative of a particular political party.

4. Upon hearing we are of the view that if any person is aggrieved, his interest is to be protected in accordance with law. Each and every person cannot be protected by way of public interest litigation. In respect of the dispute herein, there is a clear provision, i.e., Section 198(4) of the U.P. Zamindari Abolition and Land Reforms Act, 1950 which is as follows:

198 (4). The Collector may of his own motion and shall on the application of any person aggrieved by an allotment of land inquire in the manner prescribed into such allotment and if he is satisfied that the allotment is irregular, he may cancel the allotment and the lease, if any.

5. If any person is aggrieved he can approach the authority u/s 133 of the Code of Criminal Procedure in respect of any unlawful obstruction or nuisance from any public place or from anyway, river or channel. Therefore, in both way the interest of the persons are protected. In such circumstances we do not want to keep the writ petition pending.

6. We are of the view that the petitioners may avail their remedy under law as observed above, and if it is done, the concerned court or the Collector will do the needful without being influenced by any political party or any other persons. In such circumstances, no order is required to be passed. If the petitioners feel aggrieved either for their own cause or for the cause of the villagers, they can apply in accordance with law.

7. Accordingly, the writ petition is disposed of, however, without imposing any costs.