
(2007) 07 AHC CK 0074
In the Allahabad High Court

Smt. Fulmatia

APPELLANT

Vs

Sub Divisional Officer and Others

RESPONDENT

Date of Decision : 02-07-2007

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 110

Citation : (2007) 103 RD 712

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.U. Khan, J.—Heard learned Counsel for the parties.

2. This writ petition is directed against order dated 5.10.1934 passed by Sub-divisional Officer, Banda in Appeal No. 2 under Rule 6-A of UP Panchayat Raj (Maintenance of Family Registers) Rules 1370. The appeal was filed against order dated 15.5.1981/28.5.1982 passed by District Panchayatraj Officer. Appeal was earlier dismissed on 18.4.1984 thereafter review petition was filed on 21.5.1984. Through the impugned order review petition was allowed.

3. It appears that the entire dispute between the parties was regarding date and place of death of Siyaram. Earlier in the parivar register of village Pachnehi District Banda the date of death of Siyaram was mentioned as 5.3.1980 and place of death was mentioned as Hamirpur. Through the impugned order allowing the review petition Sub Divisional Officer, Banda/appellate court held that date of death must be changed to 27.3.1980 and place of death to Pachnehi Nikara.

4. The cause of dispute is a sale deed dated 7.3.1980. According to the contesting respondents Siyaram executed the sale deed on their favour on 7.3.1980.

5. The question or validity of sale deed cannot be determined by me authorities entrusted for maintaining parivar register. Entry in parivar register is merely a

piece of evidence. However, as litigation regarding sale deed dated 7.3.1980 had already started hence any subsequent attempt of entry of date of death in parivar register could not be of much help. The entire basis of impugned order dated 5.10.1984 s order 01 Settlement Officer (Consolidation), holding the sale deed dated 7.3.1980 to be valid.

6. The parliament in 1969 passed Registration of Births and Deaths Act 1969. u/s 30 of the said Act State Governments were empowered, with the approval of the Central Government, to make Rules to carry out the purposes of the Act. U.P. Panchayat Raj (Maintenance of Family Registers) Rules, 1970 were made by State of U.P. through notification dated 5.6.1970 published in the gazette dated 13.6.1970 u/s 110 of U.P. Panchayat Raj Act, 1947. At the relevant time said rules were in force. Thereafter in 2002 U.P. Registration of Births and Deaths Rules 2002 were framed in exercise of the power u/s 30 of the Registration of Births and Deaths Act 1969. Under the Rules of 1970 it was not provided that entry of death and birth in the register shall be conclusive proof of the recorded things particularly date and place of death. In *Sanganbhat v. Vasudev* AIR 1976 Karnataka 231 it has been held that entry of date of birth is not conclusive proof of date of birth, in *State of Karnataka v. T. Srinivas* AIR 1988 Karn 67 it has been held that a suit for declaration of the correct date of birth is maintainable in civil court and decree could be passed rectifying the date of birth.

7. The date of death mentioned in parivar register is not therefore conclusive. It is merely a piece of evidence. Consolidation authorities were within their jurisdiction to hold that the sale deed 7.3.1980 was valid or not. It was therefore perfectly legal to change the entries of parivar register on the basis of the said judgment.

8. It has been stated by learned Counsel for both the parties that against order of S.O.C. (on the basis of which entry was corrected in the parivar register) revision was filed before Deputy Director of Consolidation which is still pending. As the correction in the parivar register has taken place on the basis of judgment of Settlement Officer Consolidation hence while deciding revision against the said judgment of S.O.C, the revisional court/D.D.C. shall not at all take into consideration the fact that date of death was corrected in the parivar register on the basis of judgment of Settlement Officer Consolidation. As the date of death of Siyaram is extremely relevant for deciding the validity of the sale deed alleged to have been executed by him hence Deputy Director of Consolidation must decide the said fact on the basis of evidence brought on record except the entries in the birth and death register. If the Deputy Director of Consolidation takes a contrary view than the view taken by S.O.C. then necessary correction must again be made in respect of date of death of Siya Ram in the parivar register in pursuance of order/judgment of Deputy Director of Consolidation.

9. Accordingly writ petition is dismissed.