
(2010) 04 AHC CK 0348
In the Allahabad High Court
Case No : Writ Petition No. 2404 (M/S) of 2010

Smt. Jagdamba

APPELLANT

Vs

Board of Revenue, U.P. and Others

RESPONDENT

Date of Decision : 28-04-2010

Acts Referred:

Citation : (2010) 6 AWC 5518

Hon'ble Judges : Rakesh Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Sharma, J.—Heard Sri Umesh Chandra Vishwakarma, learned Counsel for the Petitioner and learned standing counsel for Respondents No. 1 to 3.

2. A strange shocking story has been set out in this case by a sister and brother-in-law making strange endeavours at every stage to usurp the property of their own brother a 27 years old young man died on 12.3.1997 in village Nayapurwa, Majra Bhadarah, Pargana Palia, Tehsil Lakhimpur, District Lakhimpur Kheri. As per learned Counsel for the Petitioner, she is elder sister of late Ram Kishun tenure holder upon whose land the Petitioner has staked her claim on the basis of an unregistered Will prepared on 12.3.1997. The three courts had disbelieved the theory put forth by the Petitioner. All the three courts have recorded concurrent findings of fact that late Ram Kishun, who was the tenure holder had died on 9.4.1997 leaving behind his wife Usha, who was deaf and dumb. It was borne out of record that she was legally wedded wife of tenure holder Ram Kishun, she gave birth to two male children one of them died and other one Jagdish, who was six years old at the time of death of his father Ram Kishun, is surviving. The Petitioner has also set out the case that in fact Ram Kishun had married one Sheela, who had left her husband before his lifetime to live with someone else. However, this fact is irrelevant to the present controversy.

3. All the three revenue courts have placed reliance on following documentary

evidence:

1. Identity Card issued by Election Commission showing Sheela wife of Ram Kishun.
2. State Bank's discharge certificate.
3. The X-ray report of Asha Diagnostic Centre.
4. Village's electoral roll and Pradhan, Gram Panchyat Adhikari certificate.
5. The order passed by the Sessions Court directing the police to lodge F.I.R. against Jagdamba and Sri Krishna (Petitioner alleging herself sister and brother-in-law of tenure holder).
6. Death certificate issued by Gram Pradhan.
7. Kutumb/Pariwar Register of village showing Sheela wife of tenure holder.
8. Statement of Pradhan and other villagers recorded at the time of spot inspection.
9. Police Station Officer Neem Gaon's report.
10. Revenue Rent Receipts in the name of Jagdish son of Ram Kishun(He was paying rent/Lagan).

4. These public documents show that Sheela was legally wedded wife of Ram Kishun tenure holder and they had a son Jagdish, who was alive at the time of death of Ram Kishun the tenure holder on 12.3.1997. Detailed findings have been recorded by the revenue courts including Additional Commissioner Administration, Lucknow while dealing with the revision u/s 219 of U.P. Land Revenue Act that the Petitioner and her husband Sri Krishna were trying to usurp the property of his own brother and his wife and a physically challenged lady minor son Jagdish.

5. Chronology of events and detailed facts have been given in the order dated 16.4.1908 to demonstrate the evil-design of the sister, she had fabricated several stories with the sole intention of grabbing the land of her brother. In the present case the Tehsildar had taken statement of the villagers and all the villagers had supported the wife Sheela and her son Jagdish, saying that there was no Will executed by Ram Kishun. In fact Smt. Sheela was his legally wedded wife, who was deaf and dumb and son Jagdish was 6 years old, all these findings of fact based on documentary and oral evidence.

6. Learned Counsel for the Petitioner has failed to persuade this Court to form any other opinion, which has already been formed by the 3 courts. It has been submitted by the Petitioner that the Board of Revenue had not afforded him the opportunity of hearing and placed reliance on the judgment of Allwyn Housing Colony Welfare Association v. Government of A. P., 2009 (27) LCD 1258: 2010 (3) AWC 2548 (SC). The Board of Revenue has passed a well considered and

detailed order. In fact it had taken note of the circumstances that even after lodging the Caveat the Petitioner had deliberately absented from the proceedings and she had not cooperated with the revenue authorities in settling the dispute within time. The Tehsildar had passed a detailed reasoned and speaking order declining to entertain the application submitted by the Petitioner. The order has been passed after hearing the Petitioner and taking note of her version. The Petitioner was merely interested in delaying the proceedings and harassing his sister-in-law. It has also been recorded in the findings of Addl. Commissioner Lucknow Division, Lucknow that she had executed 3 sale deeds of the land in dispute on the same day, i.e., 20.4.2007, her bona fides conduct and integrity was doubtful.

7. In view of this it cannot be said that the principles of natural justice were violated. The case cited by the Petitioner is not applicable in the present set of circumstances. The writ petition is dismissed.

8. The concerned revenue authorities, Collector Lakhimpur Kheri and Tehsildar are directed to correct the entries in the revenue and consolidation records immediately. They are further directed that the land in dispute which was in possession of late Ram Kishun tenure holder on 12.3.1997 shall be handed over to his wife and son legal heirs and legal representatives, taking into account the findings recorded by the revenue authorities including Additional Commissioner, Lucknow Division Lucknow and the Board of Revenue, if the land in dispute has been sold by Smt. Jagdamba the sale deeds shall be treated to be null and void and no claim in respect of the same shall be entertained.