
(2009) 05 AHC CK 0050
In the Allahabad High Court

Smt. Kunti and Others

APPELLANT

Vs

Commissioner, Meerut Division and Others

RESPONDENT

Date of Decision : 22-05-2009

Acts Referred:

Citation : (2009) 3 AWC 2613

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

Bench : Single Bench

Judgement

S.U. Khan, J.—Learned standing counsel has supplied copies of some orders.

2. The Court is not pleased with the conduct of the matter in question by the respondents. In spite of repeated warning by this Court that the name of no person shall be deleted from the revenue record particularly if it is continuing for a very long period without hearing him (vide Chaturgun and Others Vs. State of U.P. and Others, still revenue authorities in U.P., are very much fond of scoring off the entries by using the magic word "farzi". Detailed inquiries are said to have been held, in the instant case, however, it was considered to be frivolous to hear the concerned persons. If an authority goes out of the way to deny opportunity of hearing to the person concerned then a doubt may come in the mind of the Court that authority was of the opinion that its case is extremely weak and it will not be able to pass the order which it intends to pass in case the party concerned is heard.

3. On the other hand if the entries in the revenue record are fictitious or forged then not only entry is liable to be corrected and person whose name is recorded is liable to be evicted forthwith vide Hari Ram Vs. Collector and Others, but he may also be saddled with the liability of paying good damages for the period for which he remained in possession (minimum Rs. 10,000 per hectare per year). Criminal proceedings may also be launched against him. However, the sine qua non for all these things is opportunity of hearing.

4. Some times opportunity of hearing may be provided only through publication

in such newspaper which has got wide circulation like Dainik Jagaran and Amar Ujala.

5. Accordingly, order dated 28.2.2009, passed by A.D.M. (Administration), Meerut is quashed only and only on the ground and that it has been passed without hearing the concerned persons who are reported to be 36 in numbers including the 9 petitioners. Copy of the said order is Annexure-IV to the writ petition bearing Letter No. 90/ Seven-133-D.L.R.C.-2009, relating to 300 bighas of land situate in village Gadina Majra Kandala Tehsil Mawana. Consequently, all the revisions pending before Commissioner/ Additional Commissioner against the said order also stand automatically dismissed as infructuous.

6. A.D.M. (Administration), Meerut is directed to immediately publish in Daily Hindi Newspaper Dainik Jagran or Amar Ujala that the entry of these 36 persons (all the names must be given in the publication) appear to be either forged or fictitious or fraudulent. 25.6.2009 shall be fixed as the date for hearing all the persons concerned. Publication must appear at least two weeks before the above date. Opportunity of hearing must collectively be provided. Not more than one adjournment if asked for by the objectors shall be granted. Detailed order giving reasons and meeting the objections of the objectors shall be passed. The order shall be passed latest by 31.8.2009.

7. Until the decision of the matter none of those petitioners or other concerned persons shall be dispossessed who deposit Rs. 10,000 before A.D.M. (Administration), Meerut by 25.6.2009 which shall be returned to the depositors in case matter is decided in their favour otherwise the said amount shall be credited to the Government account. In case entries are found to be farzi (fictitious) or forged, the occupants shall at once be evicted and damages at the rate of Rs. 10,000 per hectare per year shall be recovered from them like arrears of land revenue (after adjusting Rs. 10,000 in case of those persons who deposit the said amount as directed above). F.I.R. shall also be lodged against all the concerned persons including concerned officers and officials simultaneously. With the above observation writ petition is disposed of. Compliance report shall be filed by 23.9.2009 and the matter must be listed for perusal of the same on 30.9.2009.

8. Executive officers must realise that some times by overdoing and showing undue haste they may spoil even excellent case. Even if order of cancellation is 100% legal and just still if it has been passed without hearing the persons concerned, the higher authority/Court where the order is challenged will have no option except to stay the operation of the order. After granting of stay matter may take years to be finalised. Attempt to save few days may result in the loss of few years. In the instant case it is quite possible that 300 bighas of State/ Gaon Sabha land has illegally been occupied by the 36 persons and records have been forged/fictitious entries in the revenue records have been got made still the undue haste shown by the A.D.M. might in the normal course would have delayed the eviction of the unauthorised occupants by years or even decades

unless this unusual step had not been taken by me to direct for hearing the concerned persons by giving them notice through publication in the newspaper.

9. In various cases the Court has found that on the basis of fictitious/ forged entries people have occupied State/Gaon Sabha land. Accordingly, it is directed that all the Collectors/District Magistrates particularly of the district in question, i.e., Meerut must make a preliminary survey to ascertain such cases and thereafter shall take proceeding for expunging the names of such occupants, their immediate eviction and imposition of damages in the manner as indicated above. However, after preliminary survey and before passing final orders persons concerned should positively be heard after notice to them which may be either personal notice or through publication in any of the above newspaper.

10. Learned chief standing counsel is directed to send a copy of this order to Chief Secretary and Revenue Secretary for suitable action and for communication to all the Collectors.

11. Office is directed to supply a copy of this order free of cost to Shri S.P. Misra, learned standing counsel by 25.5.2009.