
(2000) 01 AHC CK 0142
In the Allahabad High Court
Case No : Civil Revision No. 297 of 1999

Smt. Santosh Kumari

APPELLANT

Vs

Brij Kushore (since deceased) and others

RESPONDENT

Date of Decision : 17-01-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 30, 4, 6
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 171

Citation : (2000) 2 AWC 979 : (2000) 91 RD 312

Hon'ble Judges : P.K. Jain, J

Bench : Single Bench

Advocate : G.D. Srivastava, H.S. Srivastava and K.S. Chauhan, for the Appellant; Rahul Sripal, for the Respondent

Final Decision : Allowed

Judgement

P.K. Jain, J.—Heard Sri G. D. Srivastava. learned senior counsel appearing for the revisionist and Sri Rahul Sripal, learned counsel appearing for the opposite party.

2. A land acquisition reference u/s 30 of the Land Acquisition Act (being Land Acquisition Reference No. 41 of 1996) was made by the Additional Collector. Greater Noida. Ghazlabad. which was pending for decision before Xth Additional District Judge. Ghazlabad. The owner of the land is said to have died on 25.10.1997. Thereafter an application for substituting heirs and legal representatives was moved by Manoj Kumar and Smt. Santosh Jalan stating that there is no other heir of the deceased. Objections were filed on behalf of Smt. Santosh Kumari the present revisionist who stated that Brij Kishore Jalan died leaving behind sons and three daughters, namely Renu Agarwal, Meenu Agarwal and Parul Agarwal. The Reference Court allowed the application for substitution and permitted Manoj Kumar and Smt. Santosh Kumari Jalan to be substituted as heirs and legal representatives of Brij Kishore.

3. This order of the reference court dated 31.7.1999 is challenged in this revision.

4. It appears that an argument was raised before the Reference Court that a Gazette notification was Issued on 19th September, 1997 declaring that the son and the widow of the deceased shall be treated as heirs u/s 171 of the U.P.Z.A. and L.R. Act whereas on behalf of the revisionist. It was argued that the dispute is not with regard to rights of the land but it relates to the distribution of amount of compensation and the daughters are also the heirs. The reference court, however, accepted the argument advanced on behalf of the son and widow.

5. It is submitted on behalf of the revisionist that the Court below has misdirected itself on question of law. For opposite parties. It is submitted that the revisionist had no locus standi to file objections or to file the revision. Since question of law is involved and revision has been admitted, It is being decided without entertaining into question of locus standi of revisionist.

6. The Court below has failed to take note of the fact that after the land is acquired by issuing notification under Sections 4 and 6 of the Land Acquisition Act. the land is vested in the acquiring authority and right and interest of the recorded tenure holder in land is extinguished. Only right to claim compensation accrues which is an actionable claim. Here in this case. It appears that there is no dispute with regard to the compensation which the owner of the land was entitled to. It appears that the amount of compensation has already been finalised before the death of tenure holder Brij Kishore. The amount of compensation was quantified. Succession to assets left behind by the deceased opens on this death. The heirs and legal representatives of the deceased are successors to the quantified amount of compensation and not in respect of agricultural land. Provisions of Hindu Law shall be applicable in such a case and not of the U.P.Z.A, and L.R. Act. The Court below has, therefore, committed error of law.

7. In view of the foregoing discussions, the revision is allowed and the order of the reference court is modified and it is directed that all sons, daughters and widow of the deceased Brij Kishore shall be substituted as heirs and legal representatives. Thereafter, the reference court shall proceed to decide the reference in accordance with law within 3 months from the date of production of a certified copy of this order.