

(2018) 11 UK CK 0200

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 3490 Of 2018

Smt. Sumitra Bhatia & Another

APPELLANT

Vs

State Of Uttarakhand through Collector, Pauri Garhwal

RESPONDENT

Date of Decision : 22-11-2018

Acts Referred:

Uttar Pradesh Zamindari Abolition & Land Reforms Act, 1950 — Section 157A, 166, 167

Citation : (2018) 11 UK CK 0200

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Piyush Garg, P.C. Bisht

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.

1. Both the petitioners before this Court claim to have purchased land vide different sale deeds which is an agricultural land, as defined under the provisions of the Uttar Pradesh Zamindari Abolition & Land Reforms Act, 1950 (from hereinafter referred to as the "Act").

2. Since the vendor of the land belongs to the Scheduled Caste community, a complaint was moved with the State Authorities that these sale deeds are in violation of Section 157-A of the Act. Thereafter, the proceedings were drawn for cancellation of sale deeds in accordance with Section 166 read with Section 167 of the Act. As per the provisions of the Act, in case a Scheduled Caste sells his agricultural land to a non-scheduled caste person, the sale will be considered to be void and the land shall vest with the State Government.

3. The concerned Sub Divisional Magistrate, vide his order dated 19.08.2006, came to the conclusion that Smt. Bhaneshawri Devi (vendor), indeed, belonged to the Scheduled Caste community which was evident from the Scheduled Caste certificate issued to her by the competent authority in the year 1999. The S.D.M. also recorded a finding that Smt. Bhaneshwari Devi (vendor of land) belongs to

the "Shilpkar" community which has been notified as a Scheduled Caste by the State of Uttarakhand. Aggrieved by this order, petitioners preferred an appeal before the Additional Commissioner (Administration), Garhwal Mandal, Pauri, which was dismissed vide order dated 29.07.2010. The petitioners, thereafter, filed a second appeal (which was converted as the Revision) against the order dated 29.07.2010 before the Board of Revenue. The revision too was dismissed vide order dated 28.08.2018. Hence, the present writ petition has been filed before this Court.

4. The case of the petitioners is that Section 157-A has been inserted in the Act to protect the Scheduled Caste communities from exploitation at the hands of a non-scheduled caste person so that they may not be deprived of their land holdings. However, in the present case, the petitioners are the bona fide purchasers of the land. It is rather the petitioners, who have been exploited by the vendor herself, who showed herself as Hindu Rajput. The vendor has given the same statement in the court below in a different case that she belongs to an upper caste.

5. All the same, though she has given a wrong statement before the court and for that she is liable for perjury and an appropriate action can be taken against her in accordance with law and for which the petitioners would be at liberty to take such action or seek compensation, but the provisions of law, as they exist today, cannot be ignored, which are that a Scheduled Caste person cannot transfer his/her property to a non-scheduled caste person. There is a clear cut prohibition contained under Section 157-A of the Act. Only certain categories and areas of land can be transferred, that too, with the prior approval of the Collector concerned.

6. Admittedly, in the case of the petitioners, there is no prior approval of the concerned Collector.

7. In view of the above, no interference is called for by this Court. The petition fails and it is hereby dismissed.