
(2013) 07 AHC CK 0034
In the Allahabad High Court
Case No : C.M.W.P. No. 36831 of 2013

Sooryaman

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 10-07-2013

Acts Referred:

Citation : (2013) 120 RD 428

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Advocate : Satyendra Paratap Tiwari, for the Appellant; Parameshwar Yadav and Tariq Maqbook Khan, for the Respondent

Judgement

Amreshwar Pratap Sahi, J.—Heard learned Counsel for the petitioner, Sri Parmeshwar Yadav for the contesting respondent No. 4, Sri Tariq Maqbool Khan for the respondent No. 2 Gaon Sabha and the learned Standing Counsel for the respondent No. 1. It is not necessary to issue notice to the respondent No. 3 keeping in view the findings and the observations made herein under. The short question involved in this petition is as to whether the Additional Collector could have proceeded to cancel the lease granted by the Collector in proceedings under the U.P. Imposition of Ceiling on Land Holdings Act, 1960, and as to whether on the basis of a miscellaneous application which presumably is under the U.P.Z.A. & L.R. Act, 1950, such action could have been taken. The revision filed by the respondents has been allowed by the learned Additional Collector holding that such a proceeding under a miscellaneous application was without jurisdiction and that the Additional Collector had no authority to proceed to cancel the allotments in such proceedings.

2. Learned Counsel for the petitioner contends that since the allotments were the outcome of manipulation by the respondents, the same has been rightly cancelled by the Collector in the exercise of his inherent jurisdiction under sub-section (3) of section 27 of the U.P. Imposition of Ceiling on Land Holdings Act, 1960.

3. In reply to the said submissions Sri Yadav submits that the Additional Collector once having allotted land, had no authority to entertain a miscellaneous application for cancellation, inasmuch as, no such jurisdiction is conferred on the Collector u/s 27 of the 1960 Act. The same has been entertained by the learned Collector and an order has been passed without jurisdiction.

4. The respondents have filed a recall application which had been rejected by the Additional Collector against which a revision was filed which has been allowed holding that the Additional Collector erroneously exercised the powers for cancellation of the lease under the Ceiling Act of 1960.

5. Sri Yadav therefore submits that the order does not suffer from any infirmity and that the learned Additional Commissioner was absolutely right in setting aside the order of the Additional Collector. Learned Counsel for the Gaon Sabha and the learned Standing Counsel have adopted the same arguments.

6. Having heard learned Counsel for the parties, the provisions of sub-section (4) of section 27 of the 1960 Act confer the authority to cancel a lease of surplus land declared under the Ceiling Act exclusively on the learned Commissioner of the Division and not on the Additional Collector. The Additional Collector therefore was erroneously assuming that he had the authority to cancel the same on making an inquiry on a miscellaneous application. The learned Additional Commissioner while passing the impugned order has therefore rightly held that the order was without jurisdiction and it is open to the aggrieved person or a competent person to move application under sub-section (4) of section 27 if it is maintainable in accordance with rules under the 1960 Act. I find no error in the impugned order. The writ petition lacks merit and is accordingly dismissed.