

(1993) 02 AHC CK 0086

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 30386 of 1991

State of U.P.

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 15-02-1993

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Land Revenue Act, 1901 — Section 218, 34

Citation : (1993) 2 AWC 932 : (1993) RD 206

Hon'ble Judges : B.L. Yadav, J

Bench : Single Bench

Advocate : N.K. Chaturvedi, for the Appellant;

Final Decision : Dismissed

Judgement

B.L. Yadav, J.—This, is a petition filed by the State of U.P. through Collector, Agra, under Article 226 of the Constitution of India, with a prayer that a writ of Certiorari may be issued quashing the orders dated 8th of August, 1990 passed by the Addl. Commissioner, Agra Division in proceedings u/s 218 of the U.P. Land Revenue Act, 1901 (for short the Act) and the order of Board of of Revenue dated 22-8-91 rejecting the reference made by the Addl. Commissioner Agra, Division, Agra.

2. Both the parties suggested that inspite of application to vacate the interim stay petition itself may be decided on merits. As the matter is very short, consequently, I propose to decide the petition on merits.

3. Learned Standing Counsel urged that the reference u/s 218 of the Act, was correctly made by the Addl. Commissioner for setting aside the orders dated 10-11-1987 and 2-7-1976 in the mutation proceedings in favour of Respondents Nos. 5, 6 and 7. The Board of Revenue has heard the reference and rejected it u/s 218 of the Act.

4. Sri N.K. Chaturvedi, learned Counsel for the Respondents Nos. 5 to 7 urged

that the petition arises out of mutation proceedings u/s 34 of the Act. Consequently, in these mutation proceedings, it is clear that in place of A, name of B was entered with a view to enable the State to recover the land revenue. Rights of parties are not decided. Consequently, in Revision arising out of the mutation proceedings, rights of the parties were not decided and the petition was barred by alternative remedy. Reliance was placed on Jaipal Minor v. The Board of Revenue U.P. Allahabad 1986 ALI 107, and Anr. Division Bench case of this Court Ram Bharose Lal v. State of U.P. 1992 UP LB EC (2) 1400.

5. Having heard learned Counsel for the parties, it is well settled law that mutation proceedings do not decide the rights of the parties they are rather fiscal in nature. In the present case, application by the Respondents Nos. 5 to 7 was to mutate their name and the application was allowed. Against that order Revision was filed u/s 218 of the Act. By the Petitioner, a reference was made to the Board of Revenue, and the same was rejected by the Board of Revenue. Consequently, I am of the opinion that these proceedings do not decide the rights and title of the parties and the decision has got no legal effect on the rights of the parties rather only in place of A, name of B has been entered in the relevant revenue papers just to facilitate payment of revenue from the correct person.

6. In Ram Bharose Lal v. State of U.P. and Ors. a Division Bench of this Court (to which I was a party)" had held that mutation proceedings are fiscal in nature as they do not decide the right of the parties, consequently Petitioner may seek remedy in the appropriate court. Similarly, in Jaipal Minor v. The Board of Revenue U.P. Allahabad and Ors. it was held that mutation proceedings do not decide rights of parties.

7. A bare perusal of the impugned order indicates that writ petition arises out of the mutation proceedings u/s 34 of the Act, and in the said proceedings right of the parties are not decided rather mutation proceedings are fiscal in nature. Consequently, I am of the opinion that the Petitioner if so advised may seek his or its remedy before competent court by filing a regular suit or initiating some other proceedings.

8. The petition lacks merit and the same is dismissed. However, there will be no order as re costs Interim stay dated 29-10-91 is vacated.