

(2017) 04 AHC CK 0168
In the Allahabad High Court
Case No : 16279 of 2017

Sukhpal & Others

APPELLANT

Vs

Additional Commissioner (Admn.) Saharanpur & Others

RESPONDENT

Date of Decision : 18-04-2017

Acts Referred:

Citation : (2017) 04 AHC CK 0168

Hon'ble Judges : Ram Surat Ram (Maurya)

Bench : Single Bench

Advocate : Ashok Kumar Singh Bais, Rajesh Yadav

Judgement

1. Heard Sri Ashok Kumar Singh Bais for the petitioners, Standing Counsel for State and Sri Rajesh Yadav for gram panchayat. The writ petition has been filed against the order of Sub Divisional Officer dated 2.11.2007 cancelling the patta of the petitioners and the order of Additional Commissioner dated 17.3.2017 dismissing the revision of the petitioners against the aforesaid order.

2. The petitioners were granted plantation lease on 11.6.1993 which was duly approved by Assistant Collector on 6.12.1994. Thereafter a report has been submitted by Tehsildar on 23.10.2007 mentioning therein that in pursuance of plantation lease, the petitioners have not planted any trees on the spot as such in violation of terms of lease deed, their allotment is liable to be cancelled. On relying upon the report, the Sub Divisional Officer by order dated 2.11.2007 cancelled the lease deed of the petitioners. The petitioners challenged the aforesaid order in revision on 3.9.2016 which has been dismissed by Additional Commissioner by order dated 17.3.2017 holding that the revision is time barred and no explanation for condonation of delay has been given. Hence this writ petition has been filed. I have considered the arguments of the counsel for the parties and examined the records.

3. According to Clause 19 of the lease granted to the petitioners, in case plantation is not made within two years of the lease then their patta was liable to

be cancelled. In Clause 9 of the lease deed, a complete restriction has been imposed from cutting the trees planted by the petitioners. A perusal of memorandum of revision filed by the petitioners shows that they had taken a plea that they used to cut the old trees and plant the new trees. Although, they are not entitled to cut the old trees. In such circumstances, the report submitted by Tehsildar that no plantation was made in pursuance of the lease deed within two years, does not appears to be incorrect.

4. The petitioners have filed some photographs showing that plantation of trees on the land allotted to them. From these photographs, it appears that some trees have been planted on the border line of the plot and entire land was not covered with the plantation. Thus plantation is not made according to the terms made in the lease deed.

5. Since the lease deed is a conditional grant and in the absence of plantation of trees within two years, it was liable to be cancelled, as such it has rightly been cancelled by the court below. No interference is required by this Court. The writ petition has no merit. It is dismissed.