
(1998) 03 AHC CK 0081

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6638 of 1986

Sunahari (dead) through Lrs.Ram Kishan and Ors.

APPELLANT

Vs

Collector,Ghaziabad & Ors.

RESPONDENT

Date of Decision : 06-03-1998

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 122B, 4A

Citation : (1998) 03 AHC CK 0081

Hon'ble Judges : D.K.Seth, J

Final Decision : Disposed Of

Judgement

D. K. Seth, J.—Aggrieved by the order, dated 1421984 passed by the Teshildar, petitioners filed a revision under subsection (4A) of the Section 122B of U.P. Zamindari Abolition and Land Reforms Act (hereinafter called as the Act) which has been dismissed. These two orders have been challenged in this writ petition.

2. Subsection (4D) of Section 122B of the Act prescribes the procedure for establishment of title through a suit if any person is aggrieved by the order of the Assistant Collector or Collector.

3. Mr. M.D. Singh, learned Counsel for the petitioner submits by reason of subsection (4D), after the revision no suit is maintainable.

4. Subsection (4E) refers to the order of Assistant Collector only. It has not referred to the order of the Collector. Therefore if a revision is preferred against an order of the Assistant Collector then no suit would be maintainable. But subsection (4D) provides that suit can be filed either against the order of the Assistant Collector or against the order of the Collector. Unless there is a revision there cannot be an order of the Collector against which the suit can be maintained under subsection (4D). From the scheme of the Act it does not appear that a person can skip over subsection (4) for filing revision under subsection (4A). In order to obtain an order under sub section (4A) one has to pass through subsection (4). Therefore the order passed by the Collector having

not been excluded from subsection (4E) from the purview of subsection (4D), a suit against an order passed by the Collector in revision under subsection (4A) of Section 122B of the Act is very much maintainable. Such a view has been taken in the case of *Kajoda v. Asstt. Collector Finance and Revenue Mathura*, 1996 (2) AWC1042; 1996 ACJ 620; *Sambhoo Nath v. Chief Revenue Officer/Addl. Collector, Allahabad*, 1996 (3) AWC 1432 and *BabuLal v. Collector, Jhansi*, 1997 ALJ13.

5. In the present case since the title is disputed, the competent Court is the forum where such dispute can be gone into. In writ jurisdiction such title cannot be decided.

6. After having heard Mr. M.D. Singh, learned Counsel for the petitioner and Shri C.K. Rai, holding brief for Shri Faujdar Rai, learned Counsel for respondent No. 4 and Shri O.P. Srivastava, learned Counsel respondent No. 5, this writ petition is disposed of by granting liberty to the petitioner to take resort to subsection (4D) of Section 122B of the Act. It will be open to the petitioner to avail of the benefit of Section 14 of the Indian Limitation Act so as to exclude the time taken by him in pursuing the present writ petition for the purpose of calculation of limitation in respect of the suit which may be so filed.

7. The writ petition is thus disposed of finally. However, there will be no order as to cost. Petition disposed of.