

(2011) 12 AHC CK 0139
In the Allahabad High Court
Case No : Writ - C No. - 72594 of 2011

Surajbali @ Ram Pratap @ Pratap and Others	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 16-12-2011

Acts Referred:

Citation : (2012) 2 ADJ 502

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble Amreshwar Pratap Sahi, J.—Heard learned counsel for the petitioners.

2. The petitioners claim themselves to be the successors of those who had been allotted land which had been declared surplus in the hands of one Gulab Singh the tenure holder. Gulab Singh contested the matter on the ground of choice and the intervening events have culminated in the final judgment of the High Court dated 21.8.2009 that was filed by Gulab Singh being writ petition no. 14710 of 2003.

3. The predecessors in interest of the petitioners were parties to the said writ petition. The writ petition was allowed and the orders passed by the prescribed authority and the appellate authority were quashed with a finding to the following effect:

Considering all these aspects of the matter in view, I am of the opinion that an allottee cannot acquire better right than the right as exists with the State, therefore, after the plots were exempted from the Ceiling could be retained by the allottee as the entry of the revenue record is automatic follow-up to which no cancellation of any allotment is required and allottee has no locus stand to intervene in the matter and no separate application is required to be moved for cancellation of the lease, which was executed in favour of the respondent Nos.4 to 6. In spite of the findings recorded by the Prescribed Authority, the possession

of the plot nos. 1877, 1063 and 290 (min) have not been given back to the petitioner but his application is rejected on misconceived grounds. Therefore, the orders are not sustainable in the eyes of law and liable to be set aside.

4. Thereafter the matter proceeded and the authorities have now rejected the contention of the petitioners.

5. Learned counsel for the petitioners Sri Ram Singh submits that without substituting the heirs of the original allottees the writ petition had been allowed and even otherwise proceedings went ex-prate to the petitioners. In such a situation the matter requires a remand.

6. I have considered the aforesaid submissions and I find that the writ petition filed by Gulag Singh came to be allowed on 21.8.2009. If the petitioners were aggrieved by any such finding or the proceedings being ex-prate they ought to have moved a restoration in the said writ petition which has become final. In such a situation, it was not open either to the Commissioner or to the Prescribed Authority to have traveled beyond the said judgment and they have simply complied with the same. The petitioners having not taken appropriate steps, it is not open to them to challenge the impugned orders which is based on the judgment dated 21.8.2009. A collateral challenge to the final judgment of the High Court is therefore impermissible.

7. There is no merit in the petition and the same is dismissed.