
(2021) 09 UK CK 0038

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1756 Of 2021

Tahir Ali

APPELLANT

Vs

Daanveer Singh And Ors

RESPONDENT

Date of Decision : 02-09-2021

Acts Referred:

Uttar Pradesh Land Revenue Act, 1901 — Section 41

Uttar Pradesh Zamindari Abolition And Land Reforms Act, 1950 — Section 176

Citation : (2021) 09 UK CK 0038

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : M.S. Bhandari, N.S. Pundir, N.S. Kanyal

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Petitioner filed an application under Section 41 of the Land Revenue Act with the contention that area of his land has been reduced and part of his land appears to have gone into possession of his neighbours. Learned Assistant Collector called a report from Survey Amin and ultimately rejected petitioner's application vide judgment and order dated 25.07.2017. Petitioner challenged the said order by filing revision which too has been dismissed by Additional Commissioner, Kumaun, vide judgment dated 10.07.2018. Thus, feeling aggrieved by these two judgments, petitioner has approached this Court.

2. Heard Shri M.S. Bhandari, learned counsel for the petitioner and Shri N.S. Pundir, Deputy Advocate General alongwith Mr. N.S. Kanyal, learned Brief Holder for the State and perused the record.

3. Learned Assistant Collector has rejected petitioner's application by holding that the relief claimed by the petitioner in his application is in the shape of partition suit and therefore such relief cannot be granted in summary proceedings under Section 41 of the Land Revenue Act. It was further held that

petitioner's possession is strictly as per revenue map; therefore, without amending the revenue map, petitioner's holding cannot be demarcated. Learned revisional court dismissed petitioner's application by holding that for resolving boundary disputes, latest survey maps have to be examined and when boundaries are not clear, then boundary disputes can be resolved only on the basis of possession. It was further held by the revisional court that the relief claimed by the petitioner in his application cannot be granted in summary proceedings under Section 41 of the Land Revenue Act.

4. The view taken by both the courts below is correct. Since petitioner had purchased a portion of a joint holding from one Mr. Daanveer Singh, therefore, proper remedy available to the petitioner would be to file a partition suit u/s 176 of UPZA & LR Act.

5. In such view of the matter, this Court does not find any reason to interfere with the impugned judgments. Writ petition fails and is dismissed. However, petitioner shall be at liberty to approach the appropriate forum.