

(2012) 08 AHC CK 0098
In the Allahabad High Court
Case No : Second Appeal No. 470 of 2009

U.P.Avas Evam Vikas Parishad Lko.Thorough Its Chairman	APPELLANT
Vs	
Angnoo and Ors.	RESPONDENT

Date of Decision : 22-08-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100

Citation : (2012) 08 AHC CK 0098

Hon'ble Judges : Saeed-Uz-Zaman Siddiqi, J

Judgement

SaeedUzZaman Siddiqi, J.—Both these appeals have been filed against the common judgment passed by Learned Small Cause Court, Faizabad in Regular suit No. 212 of 1980 "Agnoo vs. Ghanshyam and Uttar Pradesh Avas Evam Vikas Parishad, Lucknow" dated 23.05.2002 and judgment and order dated 05.09.2009 passed by Additional District Judge (Court No. 4), Faizabad in Civil Appeal No. 46/2002 Agnoo vs. Ghanshyam and Awas Vikash Parishad.

2. Brief facts giving rise to the present dispute are that Agnoo filed suit for mandatory injunction on the ground that he was the owner and in possession of plot No. 3628 area 34 dismal situated in Mohalla Nakkhas city Faizabad, Pargana Haveli Awadh, Tehsil and District Faizabad by way of sale deed of the years 1966 and 1967.? An area of 31.80 dismal was acquired by Uttar Pradesh Awas Vikas Parishad through notification dated 26.05.1973 and compensation was awarded to the plaintiff; that the remaining area of 2.20 dismal is still in the ownership and in possession of the plaintiff, in the form of Latrine, bathroom, Pucca well and Charni. That Uttar Pradesh Awas and Vikas Parishad has impressed that it has acquired 0.10 dismal area in Plot No. 3628 but no notice of that acquisition has been received by the plaintiff nor any compensation has been awarded.

3. The Uttar Pradesh Awas Evam Vikas Parishad and Ghanshyam filed their separate written statements to raise similar pleas. It was pleaded that after acquisition, the suit is not maintainable in the Civil Court and the objection, if any, could have been made to the State Government under Section 32 (3) of

Uttar Pradesh Awas Vikas Parishad Adhiniyam through appeal; that the Uttar Pradesh Awas and Vikas Parishad has paid compensation of the land and well situated in the disputed property and, as such, the plaintiff is not in possession of the disputed property. After hearing, the Learned Trial Court dismissed the suit of the plaintiff against which he preferred an appeal which has been allowed and the judgment and decree of the Learned Trial Court was set aside and Ghanshyam was directed to remove the construction from the disputed land within two months from the date of judgment. Against this judgment, the second appeal has been preferred.

4. During the course of hearing, none appeared on behalf of Uttar Pradesh Awas and Vikas Parishad. The argument on behalf of Agnoo (respondent) in both the appeals and Ghanshyam (Appellant) in second appeal No. 537/2009 was heard at length.

5. No substantial question of law is involved in this case. The Learned First Appellate Court has not committed any illegality in holding that the plaintiff is the rightful claimant.

6. In result, both the second appeals are hereby dismissed in limine.

Appeals dismissed.