
(2012) 02 AHC CK 0040
In the Allahabad High Court
Case No : Second Appeal No. 107 of 2012

Zila Panchayat

APPELLANT

Vs

Islamuddin and Others

RESPONDENT

Date of Decision : 27-02-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 11
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 6

Citation : (2012) 4 ADJ 259 : (2012) 3 AWC 2990 : (2012) 116 RD 23

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble Sibghat Ullah Khan, J.—Heard Shri Ashok Kumar Pandey, learned counsel for the appellant and Shri Rajesh Gupta, learned counsel who has appeared for plaintiffs-respondents through caveat at the admission stage.

2. This appeal has been filed by one of the defendants (defendant no. 3) in Original Suit No. 975 of 1999 which was instituted by respondents 1 to 4 against State of U.P. - respondent No. 5, Nagar Nigam Meerut, - respondent No. 6, Zila Panchyat, Meerut - appellant, U.P. Secondary Education Board, Regional Office, Meerut - respondent No. 7 and Chief Medical Officer, Meerut - respondent No. 8. The suit was filed for declaration and injunction. It was decreed by Additional Civil Judge (Senior Division), Court No. 6, Meerut on 27.3.2010. Plaintiffs were declared owners in possession of 12 biswa land comprised in khasra plot No. 788 (old No. 957) and defendants were restrained from interfering in the possession of the plaintiffs over the same. Boundaries of the land in dispute were given in the decree/operative portion of the judgment of the trial court. Against the said decree present appellant filed civil appeal No. 81 of 2010 which was dismissed by Additional District Judge, Court No. 18, Meerut on 10.10.2011 hence this Second Appeal.

3. Admittedly the land in dispute was given by the ancestors of the plaintiffs to

the state and its authorities including appellant Zila Parishad, Meerut in the year 1948 for establishing a school through registered gift deed dated 29.3.1948. In the said gift deed there was a condition that if school ceased to exist then the property would revert back to the donor. In the written statement filed by the appellant copy of which is Annexure-3 to the affidavit filed in support of stay application in this appeal it was stated in paragraph-13 that after getting the land appellant constructed a school which remained functional for about 25-30 years but thereafter building of the school fell down hence the school was shifted temporarily at another place and proceedings were going on for giving theka to construct the school over the land in dispute. Written statement was filed on 28.3.2003. Even if the allegation in paragraph-13 of the written statement is taken to be correct still the position would be that in or about 1978 school building fell down and for 25 years (from 1978 till 2003) no new construction had been made. Condition No. 2 of the gift deed dated 29.3.1948 copy of which is Annexure-1 to the affidavit is quoted below:

2. The done hereby accepts the said gift and agrees with the donor that if and whenever the said land or the building constructed thereon is not required for the purposes of education, the land along with the building constructed thereon shall revert to the donor free of cost.

4. Both the courts below rightly held that as according to the own admission of the defendant-appellant in his written statement school ceased to exist since about 25 years before filing of the suit hence land stood reverted to the plaintiffs.

5. I do not find least error in the impugned findings. Clause-2 of the gift deed has rightly been interpreted by the courts below.

6. Learned counsel for the appellant has vehemently argued that Bashir Ahmad ancestor of the plaintiffs who gifted the property was a Zamindar hence after zamindari abolition he ceased to have any right over the property in dispute. This point was not raised before the courts below. When Zamindari was abolished (1.7.1952) the Zamindar (donor) was having only the right of reversion in case school stopped to run over the plot in dispute. Construction was there on the land in dispute when zamindari was abolished. If the construction had been made by the donor-Zamindar, it would not have vested in state on zamindari abolition. It cannot be said to be vacant abadi site on the date of Zamindari Abolition hence it would not have vested in State under Section-6 of U.P. Zamindari Abolition and Land Reforms Act where under constructed buildings and lands appurtenant thereof remained with the zamindars or owners or the construction.

7. In any case the right which accrued to the plaintiffs after the school building fell down and school was shifted was related with the building in some way. No provision in U.P.Z.A. & L.R. Act has been pointed by the learned counsel for the appellant under which such a right of reversion which the Zamindar Bashir Ahmad ancestor of the plaintiffs had over the land in dispute under the gift deed

also vested in the State.

8. Accordingly, there is no merit in the Second Appeal hence it is dismissed under Order 41 Rule 11 C.P.C.