

Simma vs A.D.M. on 4 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:15656

Court No. - 50

Case :- WRIT - B No. - 12843 of 1984

Petitioner :- Simma

Respondent :- A.D.M.

Counsel for Petitioner :- R.Pandey, Anil Kumar, Rakesh Pandey

Counsel for Respondent :- S.C., V.S. Parmar

Hon'ble Chandra Kumar Rai, J.

1. Heard Sri Anil Kumar, learned counsel for the petitioner, Sri Surendra Kumar Chaubey as well as Sri V.S. Parmar, learned Counsel for the contesting respondent nos. 3 to 6 and Sri Shashi Kant Kushwaha, learned Standing Counsel for the State.

2. Brief facts of the case are that proceedings was initiated under Section 198 (2) of the U.P. Zamindari Abolition and Land Reforms Act, 1950 hereinafter referred to as U.P..A. & L.R. Act before the District Magistrate, Hamirpur on the application dated 01.10.1975 filed by the petitioner in respect to lease executed in favour of respondent nos. 3 to 6. The aforementioned application was rejected vide order dated 23.11.1976 recording finding of fact that lease was executed in favour of respondent nos. 3 to 6 in accordance with provisions of the Act and Rules framed thereunder. Against the order dated 23.11.1976 a revision was filed before the Board of Revenue, which was registered as Revision under Section 229 (z) of 1976-77. The aforementioned revision was heard and dismissed by Board of Revenue vide order dated 18.06.1984. Hence this writ petition for the following reliefs:-

(I) Issue a writ in the nature of certiorari, order or direction in the nature of Certiorari quashing the order of respondent no. 1 dated 23rd of November 1976 (Annexure No. 4) and that of respondent no. 2 dated 18th of June, 1984 (Annexure No. 5)

(ii) Issue any other writ, order or direction to which the petitioner is found entitled under the law.

(iii) Award the cost of this writ petition in favour of the petitioner against the respondents."

3. This Court entertained the matter on 19.09.1984 and granted interim order staying the dispossession of the petitioner from the disputed land. The writ petition was dismissed as abated on 15.09.2022, but later on, the writ petition was restored to its original number on 17.07.2023. The parties have exchanged their affidavits in the matter.

4. Learned counsel for the petitioner submitted that lease cannot be executed in favour of the contesting respondent nos. 3 to 6 as the land in question was not vacant. He further submitted that petitioners are in possession over the plot in question since before the Abolition of Zamindari, as such proceeding for cancellation of lease was initiated on behalf of the petitioner, but under the impugned order the application for cancellation of the lease has been rejected in arbitrary manner. He next submitted that contesting respondents have admitted the possession of the petitioner over the plot in question, as such the application for cancellation cannot be rejected by the authorities. He submitted that impugned orders are liable to be set aside and the lease executed in favour of the contesting respondent nos. 3 to 6 should be cancelled.

5. On the other hand, Sri S.K. Chaubey and Sri V.S. Parmar, learned counsel appearing for the contesting respondents submitted that the application for cancellation of lease filed by the petitioner was dismissed by respondent no. 1 vide order dated 23.11.1976 with the observation that petitioner can file a suit for declaration of his right. He further submitted that revision filed against the order of respondent no. 1 dated 23.11.1976 has also been dismissed in proper manner by respondent no.2/Board of Revenue. He submitted that petitioner has filed the Suit No. 48 under Section 229(B) of the U.P.Z.A. & L.R. Act before the Court of Sub-Divisional Officer. He submitted that issues were framed in the proceedings and parties were given opportunity to lead evidence in the proceeding under Section 229(B) of the U.P.Z.A. & L.R. Act. He further submitted that Trial Court vide judgement and decree dated 15.10.1979 dismissed the petitioner's/plaintiff's suit under Section 229(B) of the U.P.Z.A. & L.R. Act, as such there is no illegality in the order passed by the authorities rejecting the application under Section 198(2) of the U.P.Z.A. & L.R. Act. He next submitted that no interference is required in the matter and writ petition is liable to be dismissed.

6. I have considered the arguments advanced by the learned counsel for the parties and perused the record.

7. There is no dispute about the fact that application under Section 198(2) of the U.P.Z.A. & L.R. Act filed by the petitioner has been rejected by respondent no. 1 vide order dated 23.11.1976 and the revision filed by the petitioner has also been dismissed by respondent no. 2 vide order dated 18.06.1984. There is also no dispute about the fact that Suit under Section 229(B) of the U.P.Z.A. & L.R. Act filed by the petitioner has also been dismissed vide order dated 15.10.1979.

8. In order to appreciate the controversy involved in the matter a perusal of finding of fact recorded under Section 229 (B) of the U.P.Z.A. & L.R. Act will be relevant, which are as under:-

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9. A perusal of the finding of fact recorded by the Trial Court in the Suit under Section 229(B) of the U.P.Z.A. & L.R. Act fully demonstrates that case of the petitioner regarding his right title and possession in respect to the plot in question has not been accepted by the Revenue Court in the Suit for declaration. The judgment of the Consolidation Courts, which are annexed along with counter affidavit also demonstrates that in the Consolidation proceedings orders were passed against the petitioner.

10. Considering the fact that the Suit under Section 229(B) of the U.P.Z.A. & L.R. Act filed by the petitioner has been dismissed by the Trial Court and the order has attained finality, there is no illegality in the order rejecting the application under Section 198(2) of the U.P.Z.A. & L.R. Act.

11. Considering the entire facts and circumstances of the case, there is no illegality in the impugned orders passed in the proceeding under Section 198(2) of the U.P.Z.A. L.R. Act.

12. The writ-petition is dismissed.

13. No order as to costs.

Order Date :- 4.2.2025 Neetu