

Allahabad High Court

Ram Singh vs Dy. Director Of Consolidation And ... on 13 November, 2003

Equivalent citations: 2004 (1) AWC 687

Author: S Srivastava

Bench: S Srivastava

ORDER S.N. Srivastava, J.

1. This writ petition is directed against the judgment passed by Deputy Director of Consolidation dated 4.8.2003 affirming judgment of Assistant Settlement Officer, Consolidation, Saharanpur by which land in dispute of Khata No. 145, Plot Nos. 353 and 207/6 was directed to be recorded as Gaon Sabha property by maintaining basic year entry.

2. Learned counsel for the petitioner urged that petitioner is in actual possession over the land in dispute prior to the date of vesting and in any case he will acquire rights being in possession prior to 30.6.1985 under Section 122B (4F) of U. P. Z. A. and L. R. Act. He further urged that Judgments passed by appellate and revisional authorities to the contrary are vitiated in law and are liable to be quashed.

3. In reply to the same, learned counsel for Gaon Sabha said that the judgments were rightly passed in accordance with law as petitioner will not get any right on the land mentioned under Section 132 of U. P. Z. A. and L. R. Act.

4. Considered arguments of learned counsel for the parties.

5. I am of the view that law is very clear that neither any Bhumidhari right nor any right under Section 122B (4F) of U. P. Z. A. and L. R. Act could accrue in any land mentioned under Section 132 of U. P. Z. A. and L. R. Act. For this purpose Section 122B (4F) and Section 132 of U. P. Z. A. and L. R. Act are being quoted below for ready reference :

Section 122B (4F) of U. P. Z. A. and L. R. Act :

"122B (4F) Notwithstanding anything in the foregoing subsections, where any agricultural labourer belonging to a Scheduled Caste or Scheduled Tribe is in occupation of any land vested in a Gaon Sabha under Section 117 (not being land mentioned in Section 132) having occupied it from before June 30, 1985 and the land so occupied together with land, if any, held by him from before the said date as Bhumidhar, sirdar or asami, does not exceed 1.26 hectares (3.125 acres), then no action under this section shall be taken by the Land Management Committee or the Collector against such labourer, and it shall be deemed that he has been admitted as Bhumidhar with non-transferable rights of that land under Section 195."

Section 132 of U. P. Z. A. and L. R. Act :

"132. Land in which (Bhumidhari) rights shall not accrue.--Notwithstanding anything contained in Section 131, but without prejudice to the provisions of Section 19, (Bhumidhari) rights shall not

accrue in :

(a) pasture lands or lands covered by water and used for the purpose of growing singhara or other produce or land in the bed of a river and used for casual or occasional cultivation :

(vi) lands set apart for public purposes under the U. P. Consolidation of Holdings Act, 1953 (U. P. Act V of 1954)."

6. It is clear that no right will accrue to petitioner under any provision of U. P. Z. A. and L. R. Act, even though petitioner is a person belonging to Scheduled Caste. There is no perversity or infirmity in the findings recorded by authorities below. The impugned orders were rightly passed in accordance with law.

7. Petition lacks merits and is dismissed.