
Levin Kumar Vs State Of Uttarakhand And Another

Writ Petition (M/S) No. 3503 Of 2023

Court: Uttarakhand High Court

Date of Decision: Jan. 8, 2024

Acts Referred:

Uttarakhand Zamindari Abolition And Land Reforms Act, 1950 " Section 131B, 154, 157AA, 157kaka, 158, 163, 166, 167#Uttar Pradesh Zamindari Abolition And Land Reforms Rules, 1952 " Rule 338

Hon'ble Judges: Pankaj Purohit, J

Bench: Single Bench

Advocate: Arvind Kumar Sharma, Yogesh Chandra Tiwari, Sudhir Kumar Nailwal, Devesh Ghildiyal

Final Decision: Dismissed

Judgement

.....

Pankaj Purohit, J",.....

1. Heard learned counsel for the parties.....

2. By means of this writ petition, the petitioner has challenged the judgment and order dated 28.11.2023 passed by the Board of Revenue (Full Bench)".....

Dehradun (Annexed as Annexure No. 8 to the writ petition), whereby, Review Petition No.02 of 2022-23,L evin Kumar vs. State of Uttarakhand,".....

was dismissed by the Full Bench of Board of Revenue, Dehradun, against the judgment and order passed by the Board of Revenue dated 01.09.2023".....

in Revision No.13 of 2022-23, Levin Kumar vs. State of Uttarakhand, as well as the order dated 16.02.2023 passed by the Additional Collector".....

(Finance and Revenue), Haridwar (Annexure No.4 to the writ petition) whereby the Case No.5 of 2021-22,S tate vs. Levin Kumar and others, was".....

allowed.....

3. The facts of the case as reflected from the pleadings are that Levin Kumar has purchased a land comprising in Khatauni Khata No.414ga area,,,,,,,,

admeasuring 0.0078 hectare, Khasra No.415Kha admeasuring 0.0330 hectare, Khasra No.425Ka admeasuring 0.0434 hectare, Khasra No.426Ka",,,,,,,,

admeasuring 0.0961 hectare, total 0.1803 hectare and Khasra No.361Ga, admeasuring 0.2730 hectare of village Raulahedi from Guddu and Suraj Pal",,,,,,,,

s/o Hari Ram, by way of a sale deed dated 27.07.2013. The petitioner belongs to scheduled caste while seller of the land Guddu and Suraj Pal s/o Hari",,,,,,,,

Ram were belonging to scheduled caste. Since the land was allotted to Hari Ram on Patta on 27.01.1976 and later on under Section 131B of the The,,,,,,,,

Uttarakhand Zamindari Abolition and Land Reforms Act, 1950, as amended (hereinafter referred to as the Act) he became bhumidhar with",,,,,,,,

Transferable Rights,,,,,,,,

4. According to the provisions contained under Section 157-AA, no person belonging to schedule caste, who has become bhumidhar under Section",,,,,,,,

131B of the Act, can transfer the said land to any person without previous approval of the Assistant Collector concerned. Section 157-AA of the Act",,,,,,,,

is quoted below:-,,,,,,,,

Ã¢â157-AA. Restrictions on transfer by member of Scheduled Castes becoming bhumidhar under Section 131-B -(1) Notwithstanding,,,,,,,,

anything contained in Section 157-A and without prejudice to the restrictions contained in Section 157 to 158, no person belonging to Scheduled Caste",,,,,,,,

having become a Bhumidhar with transferable rights under Section 131B shall have the right to transfer the land by way of sale, gift, mortgage or",,,,,,,,

lease to a person other than a person belonging to a Scheduled Caste and such transfer. if any shall be in the following order of preference-,,,,,,,,

(a) land less, agricultural labourer;" ,,,,,,

(b) marginal farmer;,,,,,,,,

(c) small farmer; and,,,,,,,,

(d) a person other than a person referred to in Clauses (a)," ,,,,,,

(b) and (c).,,,,,,,,

(2) A transfer in favour of a person referred to in Clause (a) of sub- section (1) shall be made in order of preference given below. If a person referred,,,,,,,,

to in Clause (a) is not available then transfer may be made to person referred to in Clause (b) of the said sub-section and if a person referred to in,,,,,,,,

Clause (b) is also not available then to a person referred to in Clause (c) of the said sub-section if a person referred to in Clause (c) is also not,,,,,,,,

available then to a person referred to in Clause (d) of the said sub-section in the same order of preference :-,,,,,,,,

(a) first, to the resident of the village where the land is situate;" ,,,,,,

(b) secondly, if no person referred to in Clause (a) is available, to the resident of any other village within the Panchayat area comprising the village" ,,,,,,

where the land is situate;,,,,,,,,

(c) thirdly, if no person referred to in Clauses (a) and (b) is available to the resident of a village adjoining the Panchayat area comprising the village" ,,,,,,

where the land is situate. ,,,,,,

(3) if no person referred to in sub-section (1) belonging to a Scheduled Caste is available, the land may be transferred to a person belonging to a" ,,,,,,

Scheduled Tribe in the order of preference given in sub-sections (1) and (2). ,,,,,,

(4) No transfer under this section shall be made except with the previous, approval of the Assistant Collector concerned." ,,,,,,

Explanation- For the purpose of this Section- ,,,,,,

(1) 'agricultural labourer' means a person whose main source of livelihood is agricultural labour: ,,,,,,

(2) 'landless' means the transferee who or whose wife or husband, as the case may be, or minor children, and where the transferee is a minor, also his" ,,,,,,

or her parents, hold no land as bhumidhar or asami and also hold no land as such within two years immediately preceding the date of transfer;" ,,,,,,

(3) 'panchayat area' shall have the meaning assigned to it in the United Provinces Panchayat Raj Act. 1947; ,,,,,,

(4) 'marginal farmer' means a person residing in a village who holds agricultural land nor exceeding one hectare of un-irrigated land and whose ,,,,,,

principal means of livelihood is income from agricultural land or by manual labour on such land and includes a person cultivating land as an asami or as ,,,,,,

a share-cropper; ,,,,,,

(5) 'small farmer' means a person residing in a village, who holds un- irrigated land exceeding one hectare but not exceeding two hectares and whose" ,,,,,,

principal source of livelihood is income from agricultural land or by manual labour on such land and includes a person cultivating land as an asami or as ,,,,,,

a share-cropper. ,,,,,,

Note-For the purposes of Clauses (4) and (5) of this explanation:- ,,,,,,

(a) One hectare of irrigated land shall be equated to two hectares of un- irrigated land: ,,,,,,

20.,163,...,"Suits for ejectment of

bhumidhar." ,"Six

years." ,"From the date of

illegal transfer." ,"As in the

Court

Fees Act,

1870 on

the year 1870-71, 1871-72,

revenue.