

Rama Shankar Vs State of U.P.through its Principal Secretary, Revenue, Government of U.P., Lucknow and others

Court: Allahabad High Court

Date of Decision: Nov. 4, 2011

Acts Referred: Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 " Section 167

Hon'ble Judges: A.P.Sahi, J

Final Decision: Disposed Of

Judgement

Amreshwar Pratap Sahi, J.

Heard learned counsel for the petitioner Sri B.L. Yadav and perused the supplementary affidavit filed.

The prayer made in this petition is that a direction be issued to decide the case No. 14 of 2011 pending before the respondent no. 3 in relation to

the land which had been claimed by the respondent no. 4 by way of succession.

It appears that part of Plot No. 833 had been allotted to one Ram Sumiran Pasi in the year 1976 who acquired bhumidhari rights over the same

and came to be recorded as such. He died issueless and thereafter Chauthi the respondent no. 4 claims to have succeeded to the said property

through a will. The said succession has not been accepted in view of the fact that the Ram Sumiran was a schedule caste and therefore succession

to a land allotted under the U.P. Z.A. & L.R. Act, 1950 of such a person has to be with the previous permission keeping in view the amendments

as brought about in Section 157A of the 1950 Act read with Sub Section (2A) of Section 169 of the 1950 Act. In short succession by way of will

has also to be with the prior permission of the Collector. Chauthi Ram the respondent no. 4 came to be recorded without such permission.

In the meantime a restoration application came to be filed for setting aside the entry in favour of the Chauthi Ram and in between the petitioner

claims to have been allotted part of the land on 9th March, 2010. The contention therefore of the petitioner is that if the succession of Chauthi Ram

becomes invalid then the property vests in the Gaon Sabha and accordingly the allotment to the petitioner is valid.

After having recorded all these facts, the authorities have already submitted the entire proceedings before the respondent no. 3 and a report has

also been made with a direction from the Collector to carry out proceedings under Section 167 of the 1950 Act. The petitioner therefore submits

that in view of the aforesaid position that has emerged, Chauthi Ram ceases to have any right over the land in dispute and once it vests in the Gaon

Sabha, then the allotment made in favour of petitioner is valid.

Learned Standing Counsel on the other hand contends that such an allotment has been made on 9th March, 2010 even before the passing of the

order dated 5th February, 2011 against Chauthi Ram. The said order has been brought on record through a supplementary affidavit.

Learned Standing Counsel in the opinion of the Court is correct in his submission that any action in relation to the petitioner's claim could have

been taken after orders were passed and action taken under Section 167 of the Act.

The petitioner submits that if the said proceedings are finalized then the petitioner would be entitled to the possession of the land which has been

allotted to him. It is for this reason that the petitioner has prayed for finalization of the proceedings under Section 167 of the Act.

As already noticed above so long as the proceedings under Section 167 are not finalized, the petitioner cannot claim any rights and if his

possession is being obstructed then the remedy of the petitioner is not by way of any representation but by moving an appropriate application

under the provisions of Section 198A of the 1950 Act.

Learned counsel for the petitioner submits that the Division Bench had earlier issued a direction to decide the representation of the petitioner. The

said directions were issued and it appears that the aforesaid provisions were neither brought to the notice of the Court nor has the petitioner

approached the appropriate authority as per the aforesaid provisions for the redressal of his grievances. Revenue law in this state is fortified to a

great extent providing for every method for redressal of grievances.

Therefore in the opinion of the Court, moving of representations by the petitioner was absolutely misdirected and illadvised. The petition is

disposed of with liberty to the petitioner to approach the appropriate authority in the light of the observations made herein above.