

(2011) 07 AHC CK 0290

Allahabad High Court

Case No: Writ - C No. - 16681 of 1997

Sri Bankey Lal

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: July 20, 2011**Citation:** (1997) 3 UPLBEC 1590**Hon'ble Judges:** Amreshwar Pratap Sahi, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

Amreshwar Pratap Sahi, J.

Heard learned Counsel for the Petitioner and the learned Standing Counsel for the Respondents 1, 2 and 3. No one has put in appearance on behalf of the Respondent No. 4, inspite of notice on the Land Management Committee. The Gaon Sabha has not filed any counter affidavit nor has the State filed any counter affidavit.

2. The grievance in brief is that the Petitioner's lease which was granted in 1975 could not have been cancelled by the Respondents on the basis of a cancellation order in respect of the similar leases of the same village.

3. Learned Counsel submits that merely because in the opinion of the Respondents there was a similarity in the procedure adopted, the same could not have been a ground for an automatic cancellation without putting the Petitioner to notice. Learned Counsel for the Petitioner has heavily relied the judgment in the case of Hari Ram v. Collector, District Saharanpur/Additional Collector and Ors., 2004 (97) RD 360.

4. Having heard learned Counsel for the parties, the proceedings for Patta cancellation are governed by the provisions of Sub-section (6) and Sub-section (7) of Section 198 where limitation has been prescribed. Apart from this, the ground taken for cancellation that since the irregularities had been found in similar pattas, therefore, the Petitioner's lease should also be cancelled is no ground, inasmuch as,

such a ground should be available in the case of the Petitioner as well.

The Petitioner has taken a clear case that no such similarity existed and that there was no irregularity in the grant of lease to the Petitioner.

5. These facts which have been categorically stated in the writ petition led to the passing of an interim order in favour of the Petitioner on 14.5.1997 with a direction to the Respondents to file a counter affidavit. Till date none of these averments have been controverted and therefore, in view of this, the writ petition is bound to be allowed.

6. Accordingly, the writ petition is allowed. The impugned orders dated 6.6.1983, 17.2.1990 and 26.3.1997 in so far as it relates to the lease of the Petitioner only shall stand quashed.