
Vijay Kumar & Others Vs State Of Uttarakhand & Others

Writ Petition No. 3886 Of 2018 (M/S)

Court: Uttarakhand High Court

Date of Decision: April 29, 2019

Acts Referred:

Uttar Pradesh Zamindari Abolition And Land Reforms Act, Section 229B, 229D,
333#Constitution Of India, 1950 " Article 227

Hon'ble Judges: Lok Pal Singh, J

Bench: Single Bench

Advocate: Siddhartha Singh, R.C. Arya, Sudhir Kumar

Final Decision: Disposed Off

Judgement

Lok Pal Singh, J

1. Petitioner has invoked extraordinary jurisdiction of this Court under Article 227 of the Constitution of India seeking writ of certiorari calling the

records of the case and to quash the order dated 05.12.2018 passed by learned Commissioner, Kumaon Division, Nainital in revision no. 14/2018-19,

Chandan Singh & others vs. Vijay Kumar & others and further to confirm the order of the status quo dated 16.11.2018 passed by the trial court.

2. Facts, in brief, are that plaintiffs (petitioners herein) had filed Revenue Case No. 22/235 of 2018-19 under Section 229-B of Uttar Pradesh

Zamindari Abolition and Land Reforms Act (hereinafter referred as UPZA&LR Act) seeking declaration of their rights over the land in dispute.

During pendency of the suit, plaintiffs filed an application under section 229-D of U.P.Z.A. & L.R. Act seeking interim injunction against the

respondents. The Assistant Collector, 1st Class Bhawar, Haldwani passed the order dated 06.11.2018 and fixed the matter for 21.12.2018 with the

direction that Khata Khatoni No.309 Fasli 1424-1429 and its plot (khet) no. 141, 144, 146 measuring 0.734 hect., may not be disturbed or transferred

and no changes have been made in the revenue records and respondents shall maintain status quo.

3. Feeling aggrieved, respondents preferred revision no. 14 of 2018-19, Chandan Singh & ors. Vs. Vijay Kumar & ors., under section 333 of U.P.Z.A.

& L.R. Act before the Commissioner, Kumaon Division, Nainital. The learned Commissioner by order dated 05.12.2018, stayed the effect and

operation of the order dated 16.11.2018. Hence, this petition.

4. The co-ordinate Bench of this Court at admission stage passed the following order:-

“This court is of the view that the interim order dated 16.11.2018 being an order passed under Section 229-D protection a status of property during

the pendency of a Suit may not be amenable to the revisional jurisdiction for the reason being the said order does not satisfy the test of maintainability

of a revision under the parameters as provided under Section 333 of the Act.

Consequently, this Court is of the view that the matter requires consideration, hence issue notice to the private respondent who may their counter

affidavits within a period of three weeks from today.

List thereafter.

In the meantime, the parties are directed to maintain status quo qua the nature and title of the property till the next date of listing.

5. Respondent nos. 4 to 6 have filed their counter affidavits, denying the averments of the writ petition.

6. Heard learned counsel for the parties and perused the record.

7. Learned counsel for the parties confine their prayer to the extent only that the writ petition may be disposed of in terms of the order dated

21.12.2018 passed by this Court.

8. Thus, the writ petition is disposed of in terms of the order dated 21.12.2018. It is made clear that by an order dated 21.12.2018 parties were

directed to maintain status quo qua the nature and title of the property, thus same will not be read in any other matter like harvesting of the crops and

possession. The application has been filed by the petitioner that there is dispute in regard to the harvesting of the crop and the petitioner be permitted

to harvest the crops. This Court is not inclined to pass any order on the application, filed by the petitioner. Thus, same is dismissed as withdrawn with

liberty to the petitioner to seek appropriate remedy before the court below and court below shall consider the same after affording opportunity of

hearing to the parties, in accordance with law. The trial court shall make endeavour to decide the suit expeditiously, in accordance with law, preferably

within one year from today.

9. Parties shall bear their own costs.