

Court No. - 17

Case :- WRIT - C No. - 3000091 of 1995

Petitioner :- Rameshwar Singh

Respondent :- State of U.P.

Counsel for Petitioner :- N.K. Pandey, Narendra Kumar
Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.

1. Heard Shri N.K. Pandey, learned counsel for the petitioner and learned Standing Counsel for the State-respondent.
2. By means of the present petition, the petitioner has challenged the order of the prescribed authority dated 10.5.1993 thereby rejecting the objections filed by the petitioner under Section 11(2) of the U.P. Imposition of Ceiling on Land Holdings Act, 1960 as well as the appeal against the said order which was rejected by the Commissioner, Faizabad Mandal, Faizabad by means of order dated 30.3.1995.
3. It has been submitted by learned counsel for the petitioner that the petitioner claims ownership of land bearing plot No. 625 situated at village- Hazipur, Barsandi, Faizabad. He submits that the said land has been declared surplus of the original tenure holder namely, Vimla Devi and proceedings under Section 10(2) have concluded.
4. The counsel for the petitioner submits that subsequently, the consolidation operations were initiated in the said village. During the consolidation proceedings, an application was preferred by the petitioner stating that he is the owner of the

said land on the basis of adverse possession and that he has been holding possession of the said land for a very long time. By means of order dated 29.6.1985, the Settlement Officer Consolidation on the basis of a compromise arrived at between the petitioner and Smt. Kishori Devi, the possession over the said land was legalized and the name of the petitioner was consequently entered into the revenue records. It is only on the basis of the said order passed by the Settlement Officer Consolidation that the petitioner had preferred objection under Section 11(2) of the Act of 1960 with a prayer to exclude the said land from the land declared surplus of the original tenure holder. The prescribed authority by means of order dated 10.5.1993 considering the objections of other individuals in the matters which have been remanded by the appellate authority and also considering the objections filed by the petitioner under Section 11(2) of the Act of 1960 and rejected the application of the petitioner holding that the same was time barred and the lands have already been declared surplus at the hands of the original tenure holder i.e. Sri Jagdambika Pratap Narayan. The petitioner preferred an appeal against the order passed by the prescribed authority before the prescribed authority. Before the appellate authority it was reiterated by means of order dated 29.7.1985, the petitioner has been able to establish his rights over the said land and consequently the same land ought to have been excluded from the surplus land of the original tenure holder. The prescribed authority duly considered the contentions raised by the petitioner and was of the considered view that the said declaration has been obtained after the cut-off date and the proceedings are only with a view to evade from the clutches of the Act of 1960 and also there was no explanation for delay in moving the application and consequently on both counts, rejected the appeal preferred by the petitioner.

5. Learned counsel for the petitioner has vehemently submitted that once the order has been passed by the Settlement Officer Consolidation, the right of the said land had fructified and the objections could not have been rejected by both the authorities below. Apart from the order dated 29.6.1985, there is no material either before this Court or before the authorities below to conclude that the petitioner is the owner of the disputed land.

6. The learned Standing Counsel, on the other hand, has submitted that even the order passed by the Settlement Officer Consolidation would not be of much assistance in the present case inasmuch as only revenue entries can be made in favour of the petitioner and no substantial right of ownership would vest by the order of Settlement Officer Consolidation. He further submits that the order dated 29.6.1985 passed by the Settlement Officer Consolidation was on the basis of a compromise entered into between the petitioner and the successor-in-interest of the original tenure holder, and consequently, is of no value. He also submits that once the said land has been declared surplus, no interest in the land could devolve upon the petitioner.

7. I have heard the learned counsel for the parties and perused the record.

8. It seems that initially, the proceedings were initiated against the original tenure holder in coming into effect of the Act of 1960 and the land was declared surplus at the hands of the original tenure holder. It is only subsequent to the said conclusion of the proceedings under the Act of 1960 that the petitioner had staked his claim over the said land before the consolidation authorities. Even before the Settlement Officer Consolidation, it seems that he was not able to establish his rights on merits, but merely on the basis of a compromise entered into between the petitioner and the successor-in-interest

of the original tenure holder, the name of the petitioner was entered into the revenue records. The said entry in the revenue records also would not be of any benefit to the petitioner as the same does not confer any right or title of the said land. Either before the prescribed authority or before the appellate authority or before this Court, there is no material from which it can be asserted that the petitioner had been able to establish any rights over the said land. Once the ceiling proceedings against the original tenure holder were completed and a notification under Section 14 of the Act of 1960 was issued, then no right remained in the original tenure holder with regard to the land declared surplus and at such stage, entering into a compromise with the petitioner only with a view that the name would be entered in the revenue records does not inspire confidence.

9. In view of the above, it cannot be held that the petitioner had any interest with the said land and even otherwise, the delay has not been explained either before the prescribed authority or before the appellate authority or before this Court also. Shri N.K. Pandey, learned counsel for the petitioner has relied on the judgement of this Court passed in the case of ***Ram Krishna Math and others vs. State of U.P. and others in Writ-C NO. 3000016 of 1994***. In the said judgement, the facts are clearly distinguishable and in Paragraph No. 26, this Court has held that if a person who acquires right by a legal and valid instrument of sale deed, will or dedication, he would be required to issue a notice under Section 10(2) of the Act of 1960. In the present case neither is there any sale deed nor had the petitioner been given the said land on the will or dedication, and consequently, he is merely trying to establish his right over the said land on the basis of possession which also he has not been able to prove before the prescribed authorities below. Accordingly, the facts of the case are clearly distinguishable.

10. Considering the aforesaid facts, this Court does not find any infirmity in the impugned orders. Apart from this, even the petitioner has not been able to demonstrate any interest, right or title of the said land before this Court.

11. Accordingly, this writ petition is **dismissed**.

(Alok Mathur,J.)

Order Date :- 16.10.2023

Shravan