



2025:AHC:170720

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 750 of 2025

Jayanti Prasad And 2 Others

.....Appellant(s)

Versus

Sri Vishal Kanodia And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Rajesh Kumar Pandey
Counsel for Respondent(s)	:	

Court No. - 35

HON'BLE SANDEEP JAIN, J.

1. Heard Sri Rajesh Kumar Pandey, learned counsel for the appellants.
2. The instant appeal under Section 96 C.P.C. has been filed by the plaintiffs against the impugned judgment and decree dated 07.08.2025 passed by learned Additional Civil Judge (S.D.), Court No.1, Bulandshahr in Original Suit No.691 of 2015 (Jayanti Prasad and others vs. Vishal Kanodia and others), whereby plaintiffs' suit for the relief of declaration and cancellation of sale deed has been rejected.
3. Factual matrix is that the plaintiffs claimed that their father Moolak Chand @ Mool Chand was granted a lease in Gata No.128 area 1 bigha 3 biswa and in Gata No.130 area 17 biswa situated in village Neknampur Vishanpur, Pargana and Tehsil Sikandrabad, District- Bulandshahr on the proposal of the Land Management Committee dated 29.01.1996, which was approved by the Sub Divisional Magistrate, Sikandrabad on 09.07.1996, which was subsequently rejected by the District Magistrate on 31.05.2001, against which the plaintiffs' father Moolak Chand @ Mool Chand filed a Revision No. 194 of 2001, before the court of Commissioner, Meerut, which was allowed on 27.04.2004 and consequently, the order of the District Magistrate dated 31.05.2001 was set aside and lease in favour of plaintiff's father was restored.

4. Learned counsel for the plaintiffs-appellants submitted that consequently, the lease deed executed in favour of plaintiffs' father was restored and thereafter, the plaintiffs' father became the owner of the disputed property but after the death of plaintiffs' father on 13.08.2008, plaintiffs' name was mutated in the revenue record as lease holder which was never objected by defendant No.2 to 4's father & husband of defendant No.5 but on 03.04.2010, by an order of S.D.M., Sikandrabad in Case No.7 of 2010 (Manoj and others vs. State of U.P.), under Section 33/39 of Land Revenue Act by misleading the court and by concealing the fact that in the disputed land a lease is existing in favour of the plaintiffs' father, the name of the defendant nos.2 to 5 was mutated in the revenue records and subsequently, the defendant nos.2 to 5 executed a sale deed on 12.04.2010 in favour of defendant no.1, in respect of 1 beegha land of gata No.128, without any right.

5. It is the case of the plaintiffs that since the name of plaintiffs' father Mool Chand was entered in the revenue records as lease holder, as such, the defendant nos.2 to 5 could not have been mutated as owner of the disputed land in the revenue records and they had no right to execute the sale deed dated 12.04.2010 in favour of the defendant no.1. With these submissions the plaintiffs filed a suit in the trial court for the following reliefs:-

(i) By declaratory decree granted in favour of the plaintiffs against the defendants, the order dated 03.04.2010 passed by the Sub Divisional Magistrate, Sikandrabad being ex-parte be declared to be null and void and not binding on the plaintiffs.

(ii) The sale deed dated 12.04.2010, which is registered in the office of Sub-Registrar, Sikandrabad in Book No.1, Zild No.3908 at pages 1/82, serial No.2901 be declared null and void.

(iii) By declaratory decree granted in favour of the plaintiffs against the defendants, the plaintiffs be declared entitled to the possession of Gata No.128 area 1 bigha, after the cancellation of sale deed dated 12.04.2010.

6. The defendants filed written statement in the trial court in which the plaintiffs averments were denied. It was submitted that the plaintiffs never remained the owner in possession of the disputed property. It was further averred that the lease deed was erroneously granted to the predecessors of the plaintiffs, which was cancelled by the Commissioner, vide order dated 27.04.2004 and the lease in favour of Harish Chand was restored, which was earlier cancelled by the District Magistrate vide order dated 31.05.2001. It was further submitted that the name of the defendant no.2 to 5 was rightly recorded in Khasra No.128 area 1 Beegha on 3.4.2010 in the revenue records and the sale deed executed by them in favour of the defendant no.1 on 12.04.2010 was perfectly legal. It was further submitted that no relief of cancellation of sale deed was sought by the plaintiffs. The plaintiffs' suit was barred by Section 331 of U.P.Z.A. & L.R. Act. The plaintiffs have not impleaded the Land Management Committee as necessary party in the suit. Plaintiff's suit was barred by limitation.

7. On the basis of the pleadings of the parties, the trial court framed the following issues:-

(i) Whether on the basis of plaint averments the sale deed dated 12.04.2010 is liable to be cancelled? OPP

(ii) Whether the plaintiffs' suit was barred by limitation? OPD

(iii) Whether the plaintiffs' suit was barred by the provisions of revenue code? OPD

(iv) Relief? OPP

8. The trial court has recorded a finding that the defendant nos.2 to 5 inherited the disputed property on the death of their predecessor Harish Chand, who was allotted disputed land by the Land Management Committee, vide order dated 09.07.1996 and on the basis of the order dated 27.4.2004 of the Commissioner, Meerut, Harish Chand's name was recorded in the disputed land of Khasra no.128 area 1-0-0 and after the death of Harish Chand, defendant

nos.2 to 5 being legal heirs were recorded as tenure holders, who had validly executed the sale deed on 12.04.2010 in favour of defendant no.1 because their name was entered in the revenue records. With this finding, issue no.1 was decided against the plaintiffs. Issue nos.2 & 3 were also decided in negative because the defendants failed to adduce any evidence. Issue No.4 was decided against the plaintiffs by concluding that the plaintiffs have no right to claim declaration that the sale deed dated 12.04.2010 be declared null and void and further the plaintiffs have also got no right to get declared the order of the Sub Divisional Magistrate dated 03.04.2010 null and void, since the Court lacked jurisdiction to do so under section 34 of the Specific Relief Act.

9. Learned counsel for the plaintiffs-appellants submitted that the impugned judgment of the trial court is perverse and is liable to be set aside because earlier the plaintiffs' predecessor was the recorded tenure holder in the disputed land, whose name was fraudulently deleted, as such, the defendant nos.2 to 5 have got no right in the disputed property on the basis of revenue entry, which was illegal. Learned counsel submitted that the sale deed executed in favour of the defendant no.1 by defendant nos.2 to 5, is without any legal right which is null and void document, which is liable to be cancelled by the Court. Learned counsel further submitted that the trial court erred in not appreciating the evidence on record. With these submissions, it was prayed that the appeal be admitted for hearing.

10. I have heard learned counsel for the appellants and perused the record.

11. It is very much apparent that plaintiffs-appellants are claiming declaration that the entry dated 03.04.2010 made by Sub-Divisional Magistrate, Sikandrabad in the revenue records, by which the name of defendant No.2 to 5 was mutated, after the demise of their predecessor Harish Chand is erroneous, which cannot be granted by the civil court.

12. It is apparent that under the U.P. Revenue Code, 2006 the above entry dated 03.04.2010 has been made in compliance of the order of the Commissioner, Meerut, dated 27.04.2004 as such, the civil court has got no jurisdiction to cancel or correct that entry.

13. It is also apparent that the plaintiffs are not the recorded tenure holder of the disputed land in the revenue record, as such, the plaintiffs have to seek declaration of their right which can only be granted by the revenue court. The plaintiffs cannot claim declaration regarding disputed land from the civil court.

14. It is also apparent that the sale deed dated 12.04.2010 has been executed by the defendant nos.2 to 5 being the recorded tenure holder, as such, without declaration of the rights of the plaintiffs in the disputed land, the relief of declaration of sale deed being null and void, cannot be granted to the plaintiffs. In view of the above legal situation, the trial court has not committed any illegality in rejecting the plaintiffs' suit. The trial court has no jurisdiction to cancel the revenue entry dated 03.04.2010.

15. In view of this, the appeal is dismissed under Order 41 Rule 11 C.P.C, at the admission stage.

16. The impugned judgment and decree of the trial court dated 07.08.2025 is affirmed.

17. Office is directed to prepare the decree, accordingly.

18. Registrar Compliance is directed to send a copy of this order to the Court concerned.

(Sandeep Jain,J.)

September 23, 2025

Jitendra