2026:AHC:211441

# HIGH COURT OF JUDICATURE AT ALLAHABAD

**WRIT - C No. - 10734 of 2026**

Rameshwar Dayal

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

| | | |
|---|---|---|
| Counsel for Petitioner(s) | : | Pradyumn Kumar, Rakesh Kumar |
| Counsel for Respondent(s) | : | Avinash Chandra Srivastava, C.S.C. |

**Court No. - 36**

**HON'BLE SAURABH SHYAM SHAMSHERY, J.**

1. Heard learned counsel for the parties.

2. Land in question was allotted to a person belonging to Scheduled Tribe i.e Om Prakash husband of respondent no. 6.

3. As per case of the petitioner on 30.1.2004, husband of contesting respondent has executed an agreement to sale in favour of the petitioner who was also a person belonging to Scheduled Tribe.

4. One of the villager i.e responded no.5 filed an application under Section 167 of Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 for declaring the sale deed being contrary to the procedure prescribed under Section 157-AA of the Act that it was executed without prior approval of District Magistrate. Said proceedings were finally allowed vide an order dated 14.12.2012 that petitioner was not able to show that any prior approval was taken by husband of respondent no. 6 before execution of sale deed in his favour.

5. Revision filed by the petitioner was also dismissed assigning same reason vide an order dated 27.8.2024.

6. Orders dated 14.12.2012 and 27. 8. 2024 are under challenge in this writ petition.

7. Learned counsel for the petitioner referred Section 157-AA of the Act in order to show that husband of the respondent no.6 was a Bhumidhar

with transferable right, therefore, he had power to execute sale deed in favour of petitioner being a person belonging to Scheduled Tribe and said transaction needs no prior approval. Otherwise also an application was already filed before the District Magistrate for granting approval, though the outcome of it is not on record.

8. Per contra, learned Standing Counsel has supported the impugned order on a ground that transaction was contrary to the provisions of Section 157- AA (4) of the Act that no transfer can take place except with the previous approval of Assistant Collector.

9. Learned Standing Counsel has placed reliance on a judgement passed by Supreme Court in Kesho Devi Vs. Commissioner & Ors, SLP (C) No.901 of 2020, which has reiterated the above position of law

10. Heard learned counsel for the parties and perused the records.

11. The facts which are not under dispute are that an agriculture Patta was executed in favour of husband of responded no.6 and passing of time he became Bhumidhar with transferable right and subsequently he has executed a sale deed in favour of the petitioner in the year 2004. At that stage admittedly no previous approval was sought as required by the Assistant Collector to execute the sale deed and only on a ground that an application was filed for approval it would not be deemed that approval was granted, which is an essential and mandatory requirement.

12. Other argument of learned counsel for the petitioner that since the vendee was also a person belonging to Scheduled Tribe, therefore, there was no requirement of prior approval, cannot be accepted since it would be contrary to the provisions.

13. A plain reading of Section 157-AA (4) of the Act would show that it explicitly provides, that if any sale is made to a person belonging to Scheduled Tribe, even in that case previous approval of Assistant Collector was required, therefore, Court does not find any illegality in the impugned order. The sale deed was contrary to the provisions and it was

executed without any prior approval of Assistant Collector.

14. Writ petition is accordingly dismissed.

**(Saurabh Shyam Shamshery,J.)**

**October 8, 2026**
SB

Digitally signed by :-
SANDEEP BHATTACHARYA
High Court of Judicature at Allahabad