

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Buddhi Singh Vs. Additional District Magistrate (Administrative), Aligarh and Others

Buddhi Singh Vs. Additional District Magistrate (Administrative), Aligarh and Others

SooperKanoon Citation : sooperkanoon.com/483365

Court : Allahabad

Decided On : Aug-24-1998

Reported in : 1998(3)AWC2372

Judge : D.K. Seth, J.

Acts : [Constitution of India](#) - Article 226; [Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950](#) - Sections 133, 198 (4) and (8) and 333

Appeal No. : C.M.W.P. No. 26035 of 1998

Appellant : Buddhi Singh

Respondent : Additional District Magistrate (Administrative), Aligarh and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : G.K. Singh, Adv.

Judgement :

D.K. Seth, J.

1. The petitioner has challenged an order passed under Section 198, sub-section (4) of the U. P. Zamindari Abolition and Land Reforms Act, 1950. Sub-section (8)

of Section 198 provides that subject to the provision of Section 133, every order passed under sub-section (4) of Section 198, would be final- Section 333 empowers the Board to call for the records of any suit or proceeding decided by any subordinate court in which no appeal lies or where an appeal lies but has not been preferred, on the conditions contained in clauses (a), (b) and (c) thereof, namely that it had exercised a jurisdiction not vested in it or that it had failed to exercise a jurisdiction so vested or had acted in the exercise of jurisdiction illegally or with material irregularity.

2. In the present case, counsel for the petitioner contends that the Collector had refused to exercise his jurisdiction under Section 198 (4) on the ground that this order is cognizable by a civil court and the Collector has no, power to decide the same. The objection that was raised is that an allotment of land was made by the Land Management Committee in favour of the respondent No. 3. The petitioner sought for cancellation of the said allotment. Section 198 (4) indicates that such cancellation can be made by the Collector if it comes to his knowledge even suo motu that the allotment order was wrongly made. In the decision in the case of Man Singh and others v. Board of Revenue, 1094 ALJ 902, this Court had held that even a settlement of a pond can very well be subject-matter of cancellation under Section 198 (4) of the said Act. This judgment was referred to and relied on by the learned counsel for the petitioner in support of his contention that the Collector has such power.

3. Thus it appears that the Collector had power to cancel the allotment of pond as was sought for by the petitioner.

4. According to the counsel for the petitioner, the Collector had failed to exercise his jurisdiction vested in him under Section 198 (4). Thus such a situation is covered within the ambit of clause (b) of Section 333 of the said Act. Therefore, by virtue of sub-section (8) of Section 198, the order passed by Section 198 (4) is amenable to be called for in exercise of the power under Section 333 by the Board. The orders passed under Section 198 (4) shall be final subject to Section 333, and, therefore, adequate alternative remedy is open before the Board so far as the present case is concerned.

5. Therefore, on ground of alternative remedy, this writ petition is not maintainable and as such. It is dismissed on the sole ground of alternative remedy.

6. I have refrained from making any observation with regard to the merits of the case. It would be open to the petitioner to approach the Board under Section 333 of the said Act, if he is so advised, within a period of 4 weeks from this date. If such application is made, the same shall be decided by the Board at the earliest on merits and in accordance with law.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com