

Shobha Ram Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Jul-09-2004

Reported in : 2004(4)AWC3362

Judge : M. Katju and ;K.N. Ojha, JJ.

Acts : [Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950](#) - Sections 198(4)

Appeal No. : C.M.W.P. No. 25326 of 1998

Appellant : Shobha Ram

Respondent : State of U.P. and ors.

Advocate for Def. : H.R. Mishra, S.C.

Advocate for Pet/Ap. : R.K. Asthana, ;Vishnu Sharan Singh and ;Vishwajeet Singh, Advs.

Disposition : Petition dismissed

Judgement :

ORDER

M. Katju, J.

1. This writ petition has been filed for quashing the impugned order dated 9.7.1998 (Annexure-5 to the writ petition) and for a mandamus directing the respondents not to interfere with the peaceful possession of the petitioner over the land in question.

2. Heard learned counsel for the parties.

3. The petitioner claims to be a Patta Holder in village-Panari, Gram Sabha-Raghunath Pura, tahsil and district Lalitpur. It is alleged that after completing all the formalities the Gram Panchayat passed a resolution for granting a patta to the petitioner vide resolution dated 27.10.1996 (Annexure-1 to the writ petition).

4. Thereafter a notice Under Section 198 (4) of the U. P. Z. A. and L. R. Act was issued (vide Annexure-4 to the writ petition). It is alleged that thereafter an inquiry was held behind the back of the petitioner and the patta was cancelled by the impugned order dated 9.7.1998 (vide Annexure- 5 to the petition). It is alleged that the said order was passed in violation of the principles of natural justice.

5. A perusal of the impugned order shows that in respect of the resolution of the Gram Panchayat dated 27.10.1996 only 93 pattas were granted. Various complaints were made, and an inquiry was conducted. In this inquiry it was found that pattas were granted on back date and in an irregular manner. Rule 173 of the Rules was not followed. The Pargana Adhikari found that 25 pattas were granted against the rules to the persons who were not eligible. Hence the pattas were cancelled.

6. A counter-affidavit has been filed and we have perused the same.

7. In para 4 it is stated that the petitioner is not Patta holder of the land in question. It seems that pattas were granted hurriedly and in an irregular manner. Papers were not sent to the Revenue Inspector nor was mutation done. The proceedings were not entered in the Patta Register nor was it sent to the concerned officer. Various irregularities are mentioned in detail in para 4 of the counter- affidavit. It appears that the pattas were granted in collusion with the Pargana Adhikari due to which the Land. Management Committee has suffered loss. The pattas were not granted legally in accordance with the rules. It was done on back date and

fictitious papers were prepared. The pattas were approved in collusion with the Pargana Adhikari. The proceedings were all farzi.

8. In para 9 of the counter-affidavit, it is stated that opportunity of hearing was given to the Patta Holders. The petitioner was also given an opportunity of hearing. The case was fixed on 18.9.1998 being Case No. 616 of 97-98. Hence it was not correct that no opportunity of hearing was given to the petitioner. The petitioner was given full opportunity of hearing on 18.9.1-998.

9. In para 14 of the counter- affidavit it is stated that possession in question was not given to the petitioner.

10. On these facts we are not inclined to exercise our discretion under Article 226 of the Constitution. It is evident that fraud was played in granting of pattas. It is well-settled that fraud vitiates all proceedings vide Chief Engineer v. Pancham Ram, 2004 (1) AWC 81; Vijay Shekhar v. Union of India, (2004) 4 SCC 666 ; Virendra Kumar Gupta v. State of U. P., 2004 (1) AWC 6 ; Pratap Singh v. State of Punjab, AIR 1964 SC 72 ; Dr. R. P. Singh v. Director of Higher Education, 2003 (52) ALR 185 and Ram Chandra Singh v. Savitri Devi, 2004 ALR 400.

11. Petition is dismissed.