

**Smt. Chhammee Devi Vs. State of U.P. and Others**

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**SooperKanoon Citation : [sooperkanoon.com/917824](http://sooperkanoon.com/917824)**

**Court : Allahabad**

**Decided On : Feb-04-2011**

**Judge : Sibghat Ullah Khan, J.**

**Appeal No. : WRIT - C No. - 62571 of 2010**

**Appellant : Smt. Chhammee Devi**

**Respondent : State of U.P. and Others**

**Advocate for Def. : C.S.C.; Mahesh Narain Singh , Advs**

**Advocate for Pet/Ap. : Jagat Mohan Bind; Jag Mohan Bind , Advs**

**Judgement :**

1. In this petition I passed an order on 12.10.2010 directing the revenue authorities of District Ghazipur to explain that why area was still being shown in bighas and biswas and not hectares.

2. The order dated 12.10.2010 is quoted below:

**"It is shocking that in Ghazipur even in 2008 area was denoted in bighas while for about last ten years in the entire State area is being denoted in hectares, the most standard unit for denoting the area of agricultural land. It appears that officers of Ghazipur are specifically**

**interested in keeping the district backward. The then Collector of the district and S.D.M., Zakhaniyan, district Ghazipur are required to immediately submit explanation regarding this blunder. It must also be indicated that now what unit is being used.**

**Learned counsel for the petitioner states that petitioner was able to manipulate with the officers of the Tehsil and got fisheries lease for Rs.800/- per year for a pond area of which is 1.869 hectares. This is open and clear loot of government property. In innumerable authorities starting with Babban Ram v. State of U.P. 2004 (97) RD 675 it has been held by this court that fisheries lease shall not be granted for less than Rs.10,000/- per hectare per year. Petitioner was granted fisheries lease for an amount which was utterly inadequate less than 5% of Rs.10,000/- per hectare.**

**Accordingly, list at the top of the list on 27.10.2010 for further orders. All the officers/officials who were responsible for this loot and were instrumental in grant of fisheries lease to the petitioner shall be present in court on the said date.**

**Office is directed to supply a copy of this order free of cost to Shri Babu Lal Ram learned standing counsel today."**

3. Affidavits have been filed stating therein that now the area is being shown in hectares.

4. Counter affidavit has also filed.

5. The dispute relates to grant of 10 years fisheries lease in respect of pond comprised in plot no.334 area 7 bigha, 7 biswa, 16 biswancies equivalent to 1.869 hectares situate in village Sasna Block Sadat, Tehsil Zakhaniyan, District Ghazipur. In daily Hindi Newspapers Amar Ujala and Dainik Jagaran notice was published on 19.03.2008 indicating therein that auction of fisheries lease in respect of ponds situate in different blocks of Tehsil Zakhaniyan will be held on different dates. For paragna/development block in question i.e. Sadat the date

fixed was 26.03.2008. Copy of the advertisement is Annexure-I to the writ petition. In the said advertisement even the name of the village i.e. Sasna has not been mentioned. Names of certain villages are mentioned and, thereafter, it is indicated that "all other remaining villages". Even in respect of villages names of which are mentioned neither number of plot/pond nor its area has been mentioned. This is absolutely no advertisement in the eye of law. Name of the village, number of the plot in which pond in question is situate and its area must be mentioned in the newspaper advertisement.

6. The petitioner has mentioned in para 5 and 6 of the writ petition that on 25.03.2008 proceeding for allotment of fisheries lease was held in respect of pond in dispute. This is apparently wrong as in the newspaper advertisement Annexure - I to the writ petition 25.03.2008 was the date fixed for auction of the ponds situate in Vikaskhand Manihari and not Sadat for which date fixed was 26.03.2008. In para 5 and 6 of the writ petition it is further stated that on 25.03.2008 petitioner gave application for taking the fisheries lease for 10 years in respect of pond in dispute for Rs. 8,000/-. Copy of the application is Annexure 3 which does not bear any date. However, in the said application it is mentioned that petitioner was ready to deposit  $\frac{1}{4}$  amount i.e. Rs.2000/- by 26.03.2008. It means that application had been given prior to 26.03.2008. The amount of Rs.2000/- was deposited by the petitioner on 27.03.2008. Naib Tehsildar made the recommendation in favour of the petitioner on the same date i.e. 27.03.2008 copy of which is Annexure 5 to the writ petition. However, S.D.O. invited objection through notice copy of which is Anneuxre 6 to the writ petition which does not bear any date. The date by which objections were to be filed is also not legible. However, in paras 9 & 10 of personal affidavit of S.D.O. the date of notice is mentioned as 10.05.2010 and the date by which objections were to be filed as 28.05.2010. Petitioner had given an application on 23.03.2010 to A.D.M. (Finance and Revenue) (Annexure 7 to the writ petition) praying that lease might be finalised in her favour on which the A.D.M. had directed the S.D.O. to decide the matter. However, in para 7 of personal affidavit of S.D.M. it has been stated that Gaon Sabha had filed some objection on 08.04.2008, copy of the said objections is Annexure II to the personal affidavit. The gaon sabha, respondent no.4 again filed objections on 28.05.2010 (in response to notice dated 10.05.2010) copy of which is Anneuxre IV to the

personal affidavit of S.D.O. However, the said objection was sought to be withdrawn through another application dated 18.06.2010 (copy of which is Annexure 5 to the personal affidavit of S.D.O).

7. Fisheries lease was not approved in favour of the petitioner hence through this writ petition she has prayed for writ of mandamus commanding respondent no.2 S.D.M. Zakhaniyan District Ghazipur to give his acceptance on the proposal dated 25.03.2008.

8. In my opinion as there was no proper advertisement hence no relief can be granted to the petitioner. The respondent nos. 1 to 3 rightly refused to approve the fisheries lease in favour of the petitioner.

9. Accordingly, it is directed that fresh proceedings for settlement of lease in respect of pond in dispute shall immediately be taken. The date of auction must be advertised in either one or both the daily Hindi Newspapers Amar Ujala and Dainik Jagarn at least 10 days before mentioning therein number of the plot in which pond is situate, its area and village where it is situate. All efforts must be made to settle the lease for at least Rs.18700/- per year i.e. @Rs.10000/- per hectare per year as directed by this Court through judgment reported in Babban Ram v. State of U.P. 2004 (97) RD 675 and Ram Kumar v. State 2009 (107) R.D.557. Petitioner must be permitted to participate in the auction.

10. Writ petition is, accordingly, disposed of.

11. Office is directed to supply a copy of this order free of cost to Sri S.P. Misra, learned standing counsel for immediate communication to the S.D.O. concerned within three days.

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