

SUPREME COURT OF INDIA

Jagtar Singh

Vs.

State of Uttarakhand

C.A.No.1497 of 2018

(Madan B.Lokur and Deepak Gupta,JJ.,)

02.02.2018

JUDGMENT

Deepak Gupta,J.,

SLP(C)No.5278 of 2014

1. Leave granted.
2. This appeal is directed against the judgment and order dated 29.07.2013 passed in Writ Petition No. 3791 of 2001 whereby the writ petition filed by the petitioners was dismissed.
3. The facts giving rise to this appeal are that the land, which is the subject matter of dispute, was earlier shown in possession of one Teja Singh and entry in this behalf was reflected in Varg-4 of the revenue record. After Teja Singh died, his name was substituted by Appellant Harbhajan Kaur (since deceased) by the Supervisor Qanoongo since he found her to be in possession of the land. Jagir Singh and Karnail Singh, sons of Teja Singh, filed objections under the U.P. Consolidation of Holdings Act claiming that after the death of their father, they being the sons continued to be in possession of the land and their name should have been recorded in the revenue record. These objections were dismissed. However, on appeal being filed by the sons, the Settlement Officer, Consolidation set aside the order passed by the Consolidation Officer and directed that the names of Jagir Singh and Karnail Singh be recorded in the revenue records. Revision filed before the Deputy Director of Consolidation was dismissed and thereafter, the writ petition was filed.
4. The High Court held that though Para 423 of the Land Records Manual authorizes the Supervisor Qanoongo to make entry of possession in remarks column but it shall be done after full publicity about his visit. In this case, neither publicity was done nor notice was given to the legal heirs of Teja Singh and, therefore, both the Settlement Officer and the Deputy Director, Consolidation were justified in quashing the entries made in favour of the present appellants. The High Court went on to hold as follows:

“In the impugned orders passed by the S.O.C. and D.D.C., so far as the finding that the Supervisor Qanoongo has no right to correct the entry in revenue record, which is already in existence, is concerned, this finding is affirmed, but so far as the direction given to enter the names of Karnail Singh and Jagir Singh on the land in dispute is concerned, the same is quashed and it is held that the entry of petitioners and the respondents cannot continue in revenue record after consolidation and it is directed that entry of Varg-4 be deleted from the land in question of both the parties, petitioners as well as the respondents.”

5. We are in agreement with the aforesaid findings to the extent that Supervisor Qanoongo could not have made entries in favour of the appellants without giving public notice and without giving notice to the legal heirs of Teja Singh. The dispute is as to which of the parties is in possession of the land. The High Court erred in directing that the names of both the parties should be removed. This could not have been done. Therefore, the direction of the High Court that the entry of possession cannot continue in favour of either of the parties is set aside. The matter is remanded to the Supervisor Qanoongo, who after hearing both the sides, shall decide as to who is in legal possession of the land in dispute and thereafter make relevant entry in the revenue records.

6. The appeal is disposed of in the above terms. Pending applications, if any, shall also stand disposed of.