

SUPREME COURT OF INDIA

Chandrika

Vs.

Sudama

C.A.No.1299 of 2009

(Abhay Manohar Sapre and Dinesh Maheshwari,JJ.,)

15.04.2019

JUDGMENT

Abhay Manohar Sapre,J.,

1. This appeal is directed against the final judgment and order dated 24.01.2005 passed by the High Court of Judicature at Allahabad in Civil Misc. Writ Petition No.10553 of 1983 whereby the High Court dismissed the said writ petition filed by the original appellant herein and affirmed the orders dated 29.07.1977, 12.06.1978 and 04.05.1983 passed by the Consolidation Officer, Settlement Officer Consolidation and the Deputy Director of Consolidation respectively.

2. A few facts need mention herein below for the disposal of this appeal, which involves a short point.

3. By impugned order, the High Court (Single Judge) dismissed the writ petition filed by the original appellant herein and affirmed the three orders of the Revenue Authorities, namely, the Consolidation Officer dated 29.07.1977, the Settlement Officer Consolidation dated 12.06.1978 and the Deputy Director Consolidation dated 04.05.1983 passed under the U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as "the Act).

4. So, the short question, which arises for consideration in this appeal filed by the unsuccessful writ petitioner, is whether the High Court was justified in dismissing the appellant's writ petition and thereby was justified in affirming the three orders passed by the Revenue Authorities under the Act.

5. The dispute is between the members of two branches of a family of one Sheo Sahai, namely, one branch, which is represented by Bechu, i.e., respondents and the other branch represented by Rajbali, i.e., the appellant's predecessor-in-title. The dispute relates to the land (plot Nos.248, 521, 289, 290, 294, 563, 564, 854) situated in village Hetimpur Pargana, Shahjahanpur, Tehsil Deoria, details of which are specified in Annexure P-1 to Annexure P-7 to the SLP.

6. The dispute was raised by the respondents under Section 9-A (2) of the Act before the Consolidation Officer contending therein that the original appellant's father Late Rajbali surreptitiously and without any right, title and interest in the land in question got entered his name in the Revenue Records. It is this issue, which was probed by the Revenue Authorities. It was, however, decided by all the Revenue Authorities including the writ court against the original appellant's predecessor-in-title and in favour of the respondents.

7. The Revenue Authorities held that the name of Rajbali, i.e., predecessor-in-title of the original appellant herein, could not have been entered in the Revenue Records for want of any right, title and interest in the land. It was accordingly directed to be deleted from the Revenue Records.

8. This order was unsuccessfully challenged by the original appellant's predecessor-in-title and then by the original appellant herein before the first appellate authority, second appellate authority and lastly, in the High Court giving rise to filing of this appeal by way of special leave in this Court by the writ petitioner.

9. During the pendency of this appeal, the appellant died and his legal representatives were brought on record to contest the Lis.

10. Heard Mr. T.N. Singh, learned counsel for the appellants and Mr. P. Narasimhan, learned counsel for the respondents.

11. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in this appeal.

12. In our considered opinion, the finding impugned in this appeal being concurrent finding of fact and was rightly held by the High Court as binding on the High Court in its writ jurisdiction, it is also binding on this Court, calling for no interference therein. Even otherwise, we find no case for any interference in the impugned finding on merits for the following reasons.

13. On perusal of the impugned order, we find that the land in question was consistently recorded in the name of Bechu in the revenue records through whom the respondents herein had claimed their right, title and interest in the land.

14. So far as claim of the original appellant's predecessor-in-title-Rajbali was concerned, he claimed to represent the other branch of the family through one Lalji (brother of Bechu), as is clear from the pedigree chart. It was, therefore, rightly held that Rajbali had no right, title and interest in the share of Bechu because Bechu's share devolved on his legal representatives, i.e., the respondents herein.

15. In our view, the aforementioned finding is based on factual inquiry; Second, it is based on proper appreciation of evidence, i.e., revenue entries; Third, it is not found to be against any provision of law or against the record of the case; and lastly, it is supported with reasons. We, therefore, find no ground to interfere in these findings.

16. Learned counsel for the appellants (writ petitioner), however, argued the issues on facts but in the light of what we have held above, there is no merit in his submissions.

17. In view of the foregoing discussion, the appeal is found to be devoid of any merit. It fails and is accordingly dismissed.