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(2011) 29 LCD 322 : (2011) 112 RD 702

**ALLAHABAD HIGH COURT (LUCKNOW BENCH)**

SINGLE BENCH

HAUSLA PRASAD — Appellant

Vs.

DEPUTY DIRECTOR OF CONSOLIDATION AND OTHERS — Respondent

( Before : Narayan Shukla, J )

Writ Petition No. 125 (Cons) of 1983

Decided on : 13-12-2010

**A. Consolidation of Holdings Act — Challenging Orders — Sale Deed and Gift Deed Claim — Revenue Records — Ancestral Property — The Petitioner challenged orders from the Consolidation Officer, Assistant Settlement Officer Consolidation, and Deputy Director of Consolidation concerning a property (Gata No. 2745). The Petitioner claimed sole right based on a sale deed and a gift deed. (Paras 2, 3)**

**B. Property Law — Title Dispute — Revenue Records vs. Deeds — While the Petitioner claimed sole right based on deeds, the Respondents were declared co-tenure holders based on an entry in the 1345 Fasali revenue record. The Court found no basis for the entry of Ram Harakh's name in isolation, but recognized that the parties belonged to the same family and had joint land holdings. (Para 3)**

**C. Evidence — Proof of Ownership — Insufficient Description in Deeds — The lower courts consistently found that neither the gift deed nor the sale deed provided adequate description to identify the disputed land as the same property. (Para 3)**

**D. Revenue Records — Evidentiary Value — Conferring Title — Citing Suraj Bhan and Ors. v. Financial Commissioner and Ors., (2007) 103 RD 116**

**(SC), the Court reiterated that entries in revenue records or jamabandis do not confer title but serve a "fiscal purpose" (payment of land revenue). (Para 4)**

**E. Ancestral Property — Joint Possession — Concurrent Findings — Despite the Petitioner's failure to establish sole right through the deeds, the revenue entry, supported by witness statements (including the Petitioner's father and the village Pradhan confirming joint possession and the father being the Karta Khandan), indicated the land was ancestral property. This supported the lower courts' concurrent findings that both parties were entitled to inherit their share of the property. (Para 5)**

**F. Writ Petition — Dismissal — No Error in Lower Court Orders — The Court found no error in the orders passed by the lower courts and therefore dismissed the writ petition. (Para 5)**

Final Result : Dismissed

**JUDGMENT**

Shri Narayan Shukla, J.—Case is called out. None appears for the opposite parties despite notices deemed sufficient.

2. Heard learned Counsel for the Petitioner. The Petitioner has challenged the order dated 30.11.1970, passed by the Consolidation Officer, the order dated 15.3.1971, passed by the Assistant Settlement Officer Consolidation, Faizabad as also the order dated 6th of August, 1982, passed by the Deputy Director of Consolidation.

3. The dispute relates to Gata No. 2745. The Petitioner claims sole right over the Gata in question on the basis of the sale deed executed by one Shri Jagdish Pratap Sahi as well as on the basis of a gift deed executed by one Shri Aacharji Upadhyay in favour of Petitioner's grand father, whereas only on the basis of entry entered in the revenue record in 1345 Fasali made in the name of Ram Harakh alongwith Raja Jagdish Pratap Sahi, the Respondents have been declared co-tenure holders of the land in dispute. It is stated that there is no basis for recording the name of Ram Harakh, whereas upon perusal of the record, I find that the pedigree submitted by the Petitioner, indicates that the parties belong to the same family. There is a statement of Mahavir, Petitioner's father who admitted that his father was old in age and was head of the family. In the village Ram Nagar Kara there is a land held by all the parties in the joint name. The Petitioner also held therein a grove, in which the name of Dal Singar was added. He also admitted his age as 75 years in 1970 and stated that the tress were planted much before his death. The village Pradhan also recorded his statement and submitted that it was an old grove and it has been in the possession of all the parties. There is also a finding of all the Courts below that the gift deed as well as the sale deed does not indicate the description of the property, which can

identify the land in dispute as the same land.

4. The learned Counsel for the Petitioner also cited the judgments in support of his contentions that entry in the revenue record does not confer any title over the tenure holder unless it is supported with any material. He cited a judgment rendered in the case of Suraj Bhan and Ors. v. Financial Commissioner and Ors., 2007 (103) RD 116 (SC). in which the Hon'ble Supreme Court has held that it is well settled that an entry in revenue records does not confer title on a persons whose name appears in record-of-rights. It is settled law that entries in the revenue records or jamabandi have only "fiscal purpose" i.e. payment of land revenue, and no ownership is conferred on the basis of such entries.

5. Besides entry in the revenue record, the Petitioner has to establish his right over the land in dispute under the strength of sale deed as well as gift deed, but he failed to do so, therefore, the entry made in favour of the Respondents, though does not confer any title upon them, creates the evidence in their favour to settle the dispute. As per statement of witnesses including the Petitioner's father, it is evident that both the parties belong to the same family. The village Pradhan has admitted the joint possession of all the members of family. It is admitted by Petitioner's father that his father name was recorded in the revenue record being Karta Khandan. Thus all these facts establish that the land in dispute is an ancestral property and both the parties are entitled to inherit the same as per their share, which has been affirmed by the Courts below with the concurrent findings. The orders passed by the Courts below do not suffer from error, therefore, the writ petition is dismissed.