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**ALLAHABAD HIGH COURT (LUCKNOW BENCH)**

DIVISION BENCH

MALTI DEVI — Appellant

Vs.

STATE OF U.P. THROUGH DISTRICT MAGISTRATE BALRAMPUR &  
ANOTHER — Respondent

( Before : Narayan Shukla and Ashok Pal Singh, JJ. )

Writ Petition No. 7608 of 2015

Decided on : 24-02-2016

- Uttar Pradesh Revenue Code, 2006 - Section 108

**A. Uttar Pradesh Revenue Code, 2006 — Section 108 — Devolutions of interest in holding — Death of lease holder — Continuation of fishing lease by widow — Petitioner's husband, the original lease holder for a fishing pond, died — Petitioner, as widow and legal heir, sought to continue the lease for the remaining period — Section 108(2)(a) of the Uttar Pradesh Revenue Code, 2006, specifies 'widow' as an heir — Petitioner, as sole heir, is entitled to continue the lease — Direction issued to Sub Divisional Magistrate to consider lease renewal in petitioner's favour for the remaining period, with liberty to verify facts. (Paras 1, 2, 3)**

**Counsel for Appearing Parties**

*Santosh Kumar Gupta, Advocate, for the Appellant; C.S.C, for the Respondent*

**JUDGMENT**

1. The petitioner has prayed for issuance of a mandamus to the respondents to allow her to do the fisheries works in the pond situated at plot Khasra no.293Ka/M, area 0.821 hectare in village-Baram, Tehsil-Utraula, District-Balrampur, which was allotted in favour of her

husband, for the remaining period of lease i.e. 11.12.2022.

2. Matter relates to fisheries auction. The pond was auctioned in favour of the petitioner's husband on 12.12.2012 for ten years. Accordingly the terms of contract shall expire on 11.12.2022. It has been submitted that the petitioner's husband, who was lease holder, died on 02.09.2014 leaving behind the petitioner, widow of the deceased and four minor children, therefore, the petitioner is only the legal heir to continue with the lease in terms of Section 108 of the Uttar Pradesh Revenue Code, 2006, which provides that "(1) subject to the provisions of section 107, where a bhumidhar or asami being a male dies, his interest in his holding shall devolve upon his heirs being the relatives specified in sub-section (2) in accordance with the following principles, namely:

(i) ..., (ii) ..., (iii) ..., (iv) ...

(2) The following relatives of the male bhumidhar or asami are heirs, subject to the provision of sub-section (1), namely:

(a) widow, and the male lineal descendants in the male line of descent per stirpes; provided that the widow and the son of a predeceased son how low-so-ever shall inherit per stirpes the share which would have devolved upon the predeceased son had he been alive:

(b) ..., (c) ..., (d) ..."

3. In view of the aforesaid facts as well as provisions of law, we are of the view that the petitioner being the sole heir of the deceased-auction holder is entitled to continue with the lease for the remaining period of lease, therefore, we hereby issue direction to the respondent no.2 i.e. Sub Divisional Magistrate, Utraula, District-Balrampur to consider the matter for renewal of lease in favour of the petitioner. The respondents are at liberty to verify the facts as have been submitted by the petitioner for the order.

4. With the aforesaid observations, the writ petition stands disposed of finally.