

Allahdeen Vs. Dy. Director of Consolidation and ors.

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SooperKanoon Citation : sooperkanoon.com/458531

Court : Allahabad

Decided On : Feb-05-2003

Reported in : 2003(2)AWC1484

Judge : S.N. Srivastava, J.

Acts : Uttar Pradesh Consolidation of Holdings Act, 1953 - Sections 48

Appeal No. : C.M.W.P. No. 6174 of 2003

Appellant : Allahdeen

Respondent : Dy. Director of Consolidation and ors.

Advocate for Def. : H.K. Shukla, Adv. and ;S.C.

Advocate for Pet/Ap. : Tripathi B.G. Bhai, Adv.

Disposition : Writ petition allowed

Judgement :

ORDER

S.N. Srivastava, J.

1. This petition has been filed assailing the order dated 8.1.2003 passed by Deputy Director. Consolidation. Basti on the premises that it has been passed without scanning the merit of the facts on record most vital and material to the

controversy involved.

2. From the perusal of the record, it transpires that the dispute in the present petition lies in a narrow compass. In fact plot No. 540 forms background to the dispute involved in this petition. The plot in question i.e., Plot No. 540 lies in village Majhauwa Khajuri Tappa Padia, District Basti and it is claimed to be the original holding by the petitioner. During consolidation operation, the petitioner claims to have been allotted two chaks by the Assistant Consolidation Officer--one comprising in plot No. 540 and another in plot No, 523. It is submitted by the petitioner that the matter had then attained finality inasmuch as no objection or appeal had been filed within the prescribed period of limitation and he was delivered possession of the chaks as well. It is further stated in the petition that at the time when the petitioner had gone to Bombay where he worked as Labourer for his livelihood, the respondent No. 3 filed time barred objection without impleading the petitioner and Consolidation Officer entertained the objections and allowed the same by means of the order dated 28.4.2001 the necessary consequence of which was that it visited upon the petitioner with detriment thereby affecting his chak as also the chaks of the proforma respondents 4 to 8. The appeal preferred against the impugned order culminated in being allowed and as a result, chak comprising in plot No. 540 was restored to him. Against this order, the respondent No. 3 preferred revision before the Deputy Director of Consolidation who allowed the revision and set aside the order of the Settlement Officer, Consolidation. It is in this backdrop that the impugned order passed by the Deputy Director of Consolidation has been assailed.

3. I have perused the impugned order and it is implicit from its perusal that the Deputy Director of Consolidation has passed a laconic order without traversing upon the merits and without delving deep into the matter. The Deputy Director of Consolidation has not considered grievance of the petitioner and allowed revision on the ground that order dated 3.4.2002 passed by Assistant Settlement Officer, Consolidation in appeal filed by opposite party No. 4 has become final and, therefore, Settlement Officer, Consolidation had no jurisdiction to pass different order.

4. All the tenure holders have distinct rights in the matter of allotment of their chaks. They have right to file separate appeal against an order passed between several chak holders. If one common order was passed after hearing a number of chak holders, a chak holder may file separate appeal if he feels aggrieved to protect his right even though he was impleaded as opposite parties in any other appeal. By impugned order, Deputy Director of Consolidation has failed to exercise jurisdiction by recording a finding that Settlement Officer, Consolidation had no jurisdiction to interfere in the order passed by Consolidation Officer in view of the order dated 3.4.2002 passed in appeal preferred by opposite party No. 4.

5. From perusal of the order dated 3.4.2002 passed in appeal filed by opposite party No. 4, it clearly transpires that dispute was relating to the valuation of certain trees. There was no issue between the petitioner and opposite party No. 4 though he was impleaded as opposite party in said appeal. Deputy Director of Consolidation acted illegally and allowed revision of opposite parties. Order dated 3.4.2002 passed by Settlement Officer, Consolidation has nothing to do with the present dispute while petitioner is claiming his original holding which was allotted to him by Assistant Consolidation Officer and restored by Settlement Officer, Consolidation also.

6. It is obvious that Deputy Director of Consolidation has not applied its mind to the vital aspect while interfering with the order of the subordinate authority.

7. With the result, writ petition succeeds and is allowed. The impugned order dated 8.1.2003 passed by the Deputy Director of Consolidation is quashed and the matter is relegated to the Deputy Director of Consolidation, Basti with the direction to decide it afresh on merit after giving opportunity of hearing to all concerned within a period of three months from the date of production of a certified copy of this order. It needs hardly be said that the Deputy Director of Consolidation shall assign reasons for his conclusions and pass a speaking order. In the facts and circumstances of the case, the parties shall bear their respective costs.