

Mohan Singh Vs. D.D.C. and ors.

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SooperKanoon Citation : sooperkanoon.com/473081

Court : Allahabad

Decided On : Apr-02-2003

Reported in : 2003(3)AWC2413

Judge : S.N. Srivastava, J.

Acts : Uttar Pradesh Consolidation of Holdings Act, 1953 - Sections 19(1)

Appeal No. : C.M.W.P. No. 14088 of 2003

Appellant : Mohan Singh

Respondent : D.D.C. and ors.

Advocate for Def. : S. Goswami and ;V.K. Singh, Advs. and ;S.C.

Advocate for Pet/Ap. : V.S. Chaudhary, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

S.N. Srivastava, J.

1. Heard Sri V.S. Chaudhary for the petitioner and Sri S. Goswami Standing Counsel representing the opposite parties. I have also perused the record and considered the submissions made across the bar.

2. It would appear from the perusal of the record that the petitioner's holding consisted in Gata No. 1839/1 admeasuring 0.105 hectares. However, Assistant Consolidation Officer ostensibly in ignorance of the provisions embodied in proviso to Section 19 (1) (b) of the U. P. Consolidation of Holdings Act allotted to the petitioner not only his original holdings but some additional land other than his original holding to the extent of 0.257 hectares which transgressed the bounds of 25% fixed in the proviso aforestated. However, the Deputy Director Consolidation after reckoning with every and every aspect rectified the error and the petitioner was re-situated in his original holding in letter and spirit of the provisions embodied in the proviso aforestated without prejudicing his interest in any manner. The proviso to Section 19 (1) (b) is abstracted below :

'.....Provided that, except with the permission of the Dy. Director of Consolidation, the area of the holding or holdings allotted to a tenure-holder shall not differ from the area of his original holding or holdings by more than twenty five per cent of the latter.'

In my considered view, there is no error permeating the order impugned here and the Deputy Director of Consolidation rightly passed the order with due regard being had to the mandate contained in the proviso aforestated and thus, it suffers from no perversity, illegality or impropriety apparent on the face of the order. It does not appear from the record that the petitioner was allotted land beyond the extent of 25% with the approbation of the Dy. Director of Consolidation. It is envisaged in the proviso itself that the permission could be granted in some exceptional case and there is no indicia on the record that the petitioner was allotted the land beyond the extent of 25% in consideration of some special circumstances. In the circumstances, no case for interference is made out and the petition renders itself liable to be dismissed in limine.

3. The petition is accordingly dismissed in limine.