

Jamil UddIn Vs. Deputy Director of Consolidation and ors.

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Court : Allahabad

Decided On : Apr-19-2004

Reported in : 2004(3)AWC2442

Judge : S.N. Srivastava, J.

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

Appeal No. : C.M.W.P. No. 53377 of 2002

Appellant : Jamil Uddin

Respondent : Deputy Director of Consolidation and ors.

Advocate for Def. : P.K. Kashyap, Adv. and ;Shesh Kumar, S.C.

Advocate for Pet/Ap. : Pulak Ganguly, Adv.

Disposition : Petition allowed

Judgement :

S.N. Srivastava, J.

1. Legality of order dated 30.10.2002 passed by Deputy Director Consolidation has been canvassed by means of the present petition on the ground that the revisional authority interfered with the allotment without explaining why the authority concerned was not inclined to accept the appreciation recorded by the

appellate authority.

2. In the instant case, the dispute revolves round plot No. 240, which according to the petitioner was purchased by him from Midhai Lal, the original tenure holder. It transpires from the perusal of the record that two sale deeds were executed by Midhai Lal in relation to plot No. 240, one in favour of petitioner and the other in favour of respondent No. 4. At the stage of Consolidation Officer, on objection being filed, the authority concerned assigned plots 245 and 268 to Midhai Lal, original tenure holder of plot No. 240 while plot No. 240 was allotted to respondent No. 4. The petitioner aggrieved by the order preferred appeal before the Settlement Officer Consolidation who allowed the appeal and restored original holding to the petitioner. The matter was taken up in revision by the respondent No. 4 before the Deputy Director Consolidation who allowed the revision and rendered decision which operated to the detriment of the interest of petitioner and ordered accordingly.

3. The main brunt of the argument canvassed by learned counsel for the petitioner is that the respondent No. 4 inveigled the authority into passing the impugned order on the fallacy that he was the sole purchaser of entire plot No. 240. The learned counsel for the petitioner submitted that the Deputy Director Consolidation did not delve deeper into the aspect and also that he did not reckon with all the submissions advanced before him in his decision impugned herein. It was further submitted that the petitioner was entitled to retain chak on the aforesaid plot to the extent to which original chak holder held possession. On the other hand, learned counsel for the respondent No. 4 contended that plot No. 240 was purchased by the respondent No. 4 and that the petitioner could claim entitlement to the land concerned which he had purchased and it is not permissible for him to lay claim over land other than the land pertaining to plot No. 240.

4. Having heard the learned counsel for the parties, I am of the view that the order passed by the Deputy Director Consolidation in revision does not deal with all aspects pressed before him by the petitioner. As a matter of fact, the order passed is a cryptic order and does not explain by any reasoning why the finding recorded by the Settlement Officer Consolidation was vitiated by error. The impugned order

also does not explain why he is not prepared to accept the appreciation recorded by the appellate authority that a wrong and unjustified inference has been drawn from the facts and must set aside as one without evidence. The attention of the consolidation authorities may be drawn as to what are the ingredients of a judicial decision. A judicial decision as held by a string of decisions consists of

(1) presentation of their case by the parties to the dispute,

(2) if the dispute between them is a question of fact, the ascertainment of the fact by means of evidence adduced by the parties to the dispute and often with the assistance of argument by or on behalf of the parties on the evidence,

(3) if the dispute between them is a question of law, the submission of legal argument by the parties, and

(4) a decision which disposes of the whole matter by a finding upon the facts in dispute and application of the law of the land to the facts so found, including where required a ruling upon any disputed question of law. A judicial decision always postulates the existence of a duty laid upon the authority to act judicially which invests it with that character. Here, the impugned order neither spells out the submission advanced by the learned counsel for the parties nor does it deal with all the demands raised by the learned counsel for the parties and by this reckoning, it cannot be held to be an order having all the ingredients of a judicial order passed by a quasi-judicial authority.

5. It has been repeatedly stressed by a string of decision that the reasons provide flesh to the bare bones and it helps to strengthen the confidence of the public generally in the fairness of the administration of justice. As a matter of fact, the requirement of recording reasons for decision is intended to ensure fairness and it develops the reasoning process of the adjudicating authority besides the fact that it inspires confidence in the mind of the affected party that justice has not been denied to him. Here in the instant case, from a perusal of the order, it would appear that the controversy has not been dealt with properly inasmuch as the order does not indicate appreciation of the facts of the case in correct perspective and in the manner to give it an appearance of a judgment in law. The judgment

seems to have been given in a very casual manner and does not have the same fullness as a judgment in law inasmuch as it neither indicates the appreciation of facts of the case nor law applicable. Therefore, the judgment in question cannot be given the appearance of a judgment in law and therefore, is not liable to be sustained on this score as well.

6. As a result of above discussion, the petition is allowed and the impugned order is quashed. In consequence, the matter is relegated to the Deputy Director Consolidation for decision afresh within a period of four months from the date of producing certified copy of this order. It is directed that the Deputy Director Consolidation shall afford opportunity of hearing to both the parties, and render decision afresh assigning reasons for his conclusions.

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