

Sadhari Vs. D.D.C.

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Court : Allahabad

Decided On : Apr-16-2011

Judge : Amreshwar Pratap Sahi,J.

Acts : U.P. Consolidation of Holdings Act, 1953 - Section 21 (2)

Appeal No. : WRIT - B No. - 345 of 1976

Appellant : Sadhari

Respondent : D.D.C.

Advocate for Def. : S.C. Adv

Advocate for Pet/Ap. : N.K.Saxena, Adv

Judgement :

1. This writ petition was admitted on 20.02.1976 and an interim order was passed to the effect that till further orders of this Court the dispossession of the petitioner from the land in dispute shall remain stayed.

2. Notices were issued to the respondent nos. 2 to 5 and the office report indicates that neither the undelivered cover nor the registered notices have been returned so far.

3. Accordingly, after 35 years of the institution of the writ petition there is no occasion for this Court to issue any fresh notices as none of the respondents have

filed any response in spite of the fact that the stay order has been operating in favour of the petitioner.

4. The dispute appears to have been arisen under Section 21 (2) of the U.P. Consolidation of Holdings Act, 1953 for allotment of land during consolidation operations. The petitioner's short case before the Consolidation Authorities was that his original holding comprising of certain plots was of a total area of 1.25 acres. Out of the said holding of the petitioner, an area of only 0.11 acres has been allotted over the original holding of the petitioner of plot no. 292/1.

5. Aggrieved, the petitioner has approached this Court exercising jurisdiction under Article 226 of the Constitution of India. Paragraph 12 of the writ petition categorically states that plot no. 292/1 is a major original holding of the petitioner measuring an area of 1.44 acres and almost the entire land has been taken away from the original holding of the petitioner.

6. This grievance of the petitioner appears to be justified more so when the respondents in spite of notice have not chosen to respond to this writ petition where an interim order has been operating for the past 35 years. This Court can safely presume that the petitioner is in possession over the land in dispute which has not been disturbed so far.

7. In such a situation, it would be a travesty of justice to allow any alteration of Chaks at this stage when the farmers must have cultivated the said land and improved upon it.

8. In view of this, the impugned order dated 17.12.1975 is set aside and the writ petition is allowed in the absence of the learned counsel for the parties.

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