SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Paras and Others Vs. Dy. Director of Consolidation, Ghazipur and Others

Paras and Others Vs. Dy. Director of Consolidation, Ghazipur and Others

SooperKanoon Citation : sooperkanoon.com/917642

Court : Allahabad

Decided On : Mar-14-2011

Judge : Amreshwar Pratap Sahi, J.

Appeal No. : WRIT - B No. - 12858 of 2011

Appellant : Paras and Others

Respondent : Dy. Director of Consolidation, Ghazipur and Others

Advocate for Def. : C.S.C.; Ram Autar Singh Yadav, Advs

Advocate for Pet/Ap. : Rajesh Yadav, Adv

Judgement :

1. Heard Sri K.R. Sirohi, learned Senior Counsel for the petitioners, Sri Ram Autar Singh Yadav, learned counsel for the contesting respondent nos. 2 to 5 and the learned Standing Counsel for the respondent no. 1.

2. After the matter was heard at length, Sri Ram Autar Singh states that he does not propose to file any counter affidavit to which learned standing counsel has no objection and it has been agreed that the matter may be disposed of finally at this stage.

3. The contention raised by Sri K.R. Sirohi is that the Deputy Director of Consolidation while remanding the matter has failed to exercise his jurisdiction by not entering into the issue relating to the validity of the compromise as well as the

impact of the order dated 31st October, 1984. In such a situation, the order of remand before the Consolidation Officer by setting aside the order dated 01.03.1996 is unjustified. He submits that the Deputy Director of Consolidation without recording any independent finding on his own on the said two issues, it could not have been said that the matter needed a remand before the Consolidation Officer. He submits that this is the error which has been pointed out by the Deputy Director of Consolidation in the order of the Settlement Officer, Consolidation and without rectifying the same or recording any finding on the said issue, the Deputy Director of Consolidation has committed the same error himself and could not have remanded thematter to the Consolidation Officer. In essence, the argument is that without satisfying the basis/factum of the compromise that has crystallized in the order dated 1st March, 1996, there was no occasion for the Deputy Director of Consolidation to have remanded the matter to the Consolidation Officer. He submits that at the best he could have remanded the matter back to the Settlement Officer, Consolidation to satisfy himself on the said two scores before proceeding to decide the appeal.

4. Learned counsel for the contesting respondents and the learned Standing Counsel submit that the Deputy Director of Consolidation has reflected on the said issues and has, therefore, rightly sent the matter before the Consolidation Officer for deciding the matter afresh, therefore, the impugned order does not require any interference.

5. Having heard learned counsel for the parties and keeping in view the submissions raised, it is evident that the Settlement Officer, Consolidation has dismissed the appeal filed by the contesting respondents only on the ground of limitation. The revision was entertained and arguments were advanced in relation to the factum of the compromise as well as the impact of the order dated 30.10.1984. In such a situation, the Deputy Director of Consolidation was justified in construing the issue relating to the condonation of delay in favour of the contesting respondents but in my view, he has travelled in an unwarranted direction, without entering into the issue of the validity of the compromise and the impact of the order dated 31st October, 1984, to set aside the order dated 1st of March 1996. To that extent, the order dated 20.01.2011 cannot be sustained.

6. Accordingly, the writ petition is allowed.

7. The matter stands remanded to the Settlement Officer,Consolidation, who shall now proceed to decide the appeal afresh. The order of the Deputy Director of Consolidation is set aside.

8. It shall be open to the Settlement Officer, Consolidation to decide this issue as well, namely the issue relating to the factum of the compromise as also the impact of the order passed by the Consolidation Officer on 31.10.1984. The Settlement Officer, Consolidation shall decide the matter in the light of the observations made herein above within a period of three months from the date of presentation of a certified copy of this order before him.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com