

(1997) 12 AHC CK 0002
In the Allahabad High Court
Case No : C.M.W.P. No. 26351 of 1991

Amarjit Singh

APPELLANT

Vs

Asstt. Director of Consolidation and Another

RESPONDENT

Date of Decision : 16-12-1997

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 19, 19(1)

Citation : (1997) AWC 850 Supp : (1998) RD 231

Hon'ble Judges : Sudhir Narain, J

Bench : Single Bench

Advocate : D.P. Singh, for the Appellant; H.S.N. Tripathi and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—The dispute relates to the allotment of chaks. The Deputy Director of Consolidation by the impugned order dated 31.8.1991 has made certain adjustments in the chaks of the parties.

2. I have heard Sri D. P. Singh, learned Counsel for the Petitioner and Sri H. S. N. Tripathi, learned Counsel for the contesting Respondents.

3. The question relates as to whether the Deputy Director of Consolidation was justified in making changes in the formation of chaks of the parties.

4. Learned Counsel for the Petitioner urged that the Deputy Director of Consolidation heard the arguments of learned Counsel for the parties in revision. After hearing the revision, he decided to make local inspection and in fact made local inspection but after making the inspection, he did not fix any date for hearing the revision and this has prejudiced the Petitioner,

5. The Petitioner has not shown that the Deputy Director of Consolidation passed any order that after making local inspection, he will hear the revision again. The local inspection can be made by the Deputy Director of Consolidation for two

reasons, firstly to verify the facts as existing on the record and secondly, to find out some material on local inspection. In the first case, it is not necessary to hear the arguments again in revision. In the second case when he obtains any material afresh and prepares an inspection memo, it will be necessary to hear the arguments of learned Counsel for the parties on the basis of such material obtained by him. It is not denied that at the time of local inspection, the parties or their counsel were present. The Petitioner also did not file any application before the Deputy Director of Consolidation after he made the local inspection to give another opportunity of hearing. In such a situation, it was not necessary for the Deputy Director of Consolidation to again give opportunity of hearing to the Petitioner.

6. Learned Counsel for the Petitioner has placed reliance upon the decision *Ramdeo Vs. D.D.C. and Others*, wherein it was held that if the revising authority was not able to decide the revision on material on record, the hearing before local inspection was nullified and the Petitioner was entitled to fresh hearing on material obtained after inspection. As in the present case, it has not been shown that the revision was decided on the material obtained on inspection, the Petitioner was not entitled for hearing after local inspection was made by the revising authority.

7. I have perused the impugned order. It does not refer to any material obtained on the local inspection.

8. The second submission of learned Counsel for the Petitioner is that the contesting Respondents should have been given the land at the place where they had their largest holding. He has placed reliance on Section 19(1) (e) of U.P. Consolidation of Holdings Act which provides that every tenureholder, as far as possible, be allotted a compact area at the place where he holds largest part of his holding. Section 19 lays down the guidelines for carving out the chaks. The mere fact that the chak is not carved out where the tenant has largest holding will itself not vitiate the formation of the chaks unless it is shown that by not providing such chak at the place of original holding, some other injury will be caused to the tenureholder, e.g. the land is given far away from the abadi, the place where he had irrigation facilities they are taken out, the place where he had chak road or other transport facilities, he is deprived of such benefits. The Petitioner has not indicated any such reason which could show that he has been deprived of any of such facility.

9. Learned Counsel for the Petitioner has placed reliance upon the decision *Panhari v. Sahaik Sanchalak Chakbandi, Deoria and Ors.* 1983 AWC 166, wherein it was held that where a party was given only one chak at the appellate stage by the Settlement Officer Consolidation but the Deputy Director of Consolidation in revision allotted two chaks, the order will not be in accordance with law without assigning any specific reason for it.

10. In *Jagarnath Vs. Deputy Director of Consolidation and Others*, it was held

that in carving of the chaks, the Consolidation Authorities should comply with the provisions of Section 19 (1)(e) of the Consolidation of Holdings Act. These cases have no application to the facts of the present case.

11. The third submission of learned Counsel for the Petitioner is that he has been given the land of bad quality. The plots have been allotted on the basis of their valuation. The Petitioner has not shown that the valuation of those plots was incorrectly made. There is no manifest error of law.

12. The writ petition is accordingly dismissed.