

(2013) 11 AHC CK 0048
In the Allahabad High Court
Case No : Writ-B No. 61210 of 2013

Anil Kumar

APPELLANT

Vs

Dy. Director of Consolidation and Others

RESPONDENT

Date of Decision : 08-11-2013

Acts Referred:

Citation : (2013) 121 RD 788

Hon'ble Judges : Ram Surat Ram (Maurya), J

Bench : Single Bench

Advocate : Satyendra Kumar Singh and Chandra Prakash Mishra, for the Appellant; S.N. Pandey, for the Respondent

Final Decision : Disposed Of

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri Satyendra Kumar Singh, Counsel for the petitioner and Sri S.N. Pandey, Counsel for respondent No. 2. The writ petition is directed against the order of the Deputy Director of Consolidation dated 10.10.2013 by which the application moved by the petitioner for amending the objection filed in the recall application has been rejected. The petitioner has further prayed for quashing the orders dated 15.2.2012 and 23.5.2013 by which the application moved by the petitioner for summoning the record of the Consolidation Officer before deciding the revision on merit has been rejected. The petitioner has further prayed for a mandamus directing the Deputy Director of Consolidation to summon the record of the Court below and other relevant documents before deciding the revision on merit.

2. So far as the order dated 10.10.2013 is concerned by this order the amendment application has been rejected. It is made clear that the Rule of pleadings as contained in the CPC is not applicable in the consolidation proceedings. The consolidation authorities are required to decide the dispute according to the procedure as given under Rule 26(2) of U.P. Consolidation of Holdings Rules, 1954 in which the consolidation authorities are required to consider the oral and documentary evidence of the parties and decide the matter.

Accordingly, the amendment in pleading was neither necessary nor obligatory in the proceeding under U.P. Consolidation of Holdings Act, 1953. In such circumstances at this stage this Court is not inclined to interfere in the order dated 10.10.2013. Suffice it to say that in case the petitioner leads evidence then it will be considered by the consolidation authorities.

3. u/s 48(1) of the Act provides that the Director of Consolidation may call for and examine the record of any case decided or proceedings taken by any subordinate authority for the purpose of satisfying himself as to the regularity of the proceedings; or as to the correctness, legality or propriety of any order as such for deciding the revision it is imperative for the Deputy Director of Consolidation to summon the record of the Court below from whose order this revision was filed. The Supreme Court in *Nicholas V. Menezes Vs. Joseph M. Menezes and Others*, , has held that appeal and revision ought to have been decided after summoning the Lower Court record from whose order the appeal and revision has been filed.

4. In the circumstances the order dated 15.2.2012 and 23.5.2013 are illegal and are set aside. The Deputy Director of Consolidation may summon the record as early as possible and decide the revision without granting unnecessary adjournment to the parties, expeditiously, preferably within a period of three months from the date of production of a certified copy of this order before him. With the aforesaid direction the writ petition is disposed of.