
(2014) 04 AHC CK 0194
In the Allahabad High Court
Case No : Writ-B No. 9795 of 2004

Antoo	Vs	APPELLANT
D.D.C.		RESPONDENT

Date of Decision : 15-04-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 20(1), 20(2)

Citation : (2014) 123 RD 409

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : D.S. Yadav, A.K. Rai, Ajay Kumar Yadav, R.J. Singh, V.K. Singh and Vishnu Kumar Singh, Advocate for the Appellant; Abhai Kr. Singh, Anuj Kumar, Awadhesh Kumar Singh, Lal Chand Yadav, R.D. Singh and Sachchidanand Singh, Advocate for the Respondent

Judgement

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Anjani Kumar Mishra, J.—I have heard Sri Ajay Kumar Yadav learned Counsel for the petitioner and Sri A.K. Singh learned Counsel for the contesting opposite party as also their vendees who have been permitted to intervene in this writ petition vide order dated 8.9.2011. The petitioner is chak holder No. 13 while the respondent Nos. 6 and 7 are the holders of chak No. 1521. The dispute in the writ petition relates to allotment of chaks.

2. The dispute primarily pertains to plot Nos. 1459 and 1464 situated in Village Mirzapur, Pargana Bahariyabadh district Ghazipur. It is the case of the petitioner that he purchased these two plots through registered sale-deeds and was recorded as Bhumidhar thereof in the basic year record. Aggrieved by the chaks proposed by the Assistant Consolidation Officer, the petitioner is said to have filed an objection under section 20(1) of the U.P. Consolidation of Holdings Act, 1953 (herein after referred to as the Act). The Consolidation Officer rejected the objection of the petitioner. However, a copy of this order is not on record. Against the rejection of his objection, the petitioner preferred an appeal under section

20(2) of the Act which was partly allowed by the Settlement Officer Consolidation vide order dated 11.4.2000. Still not satisfied the petitioner preferred Revision No. 1555 of 2003 before the opposite party No. 1.

3. A perusal of the grounds of revision reveals that the grievance of the petitioner was that plot No. 1459 wherein existed his Kachcha house, had been excluded from his chak. It is further revealed by a perusal of the grounds of revision that the petitioner wanted that the entire area of plot Nos. 1459 and 1464 be allotted in his chak.

4. The Deputy Director of Consolidation by his order dated 29.9.2003 allowed the revision modifying the chak in such a manner that part of plot No. 1459 and whereon existed the Kachcha house of the petitioner, was included in his chak while the chaks of respondent Nos. 6 and 7 were modified and they were shifted on plot No. 1464 on the reasoning that the chak proposed to the said respondents on plot No. 1459 was an Udan chak and by adjusting the petitioner on plot No. 1459 for including his house in his chak, the said respondents would be shifted to another Udan chak.

5. Aggrieved by the order of the Deputy Director of Consolidation the instant writ petition has been filed. The order impugned has been assailed on two grounds. The first ground is that the Pakka house of the petitioner situated on plot No. 1464 has been excluded from his chak. Secondly, no reasons have been assigned by the Deputy Director of Consolidation for modifying the chaks.

6. I have perused the record and the pleadings of the parties.

7. The allegation that by the order of the Deputy Director of Consolidation the Pakka house on plot No. 1464 has been included in the chak of the contesting respondents has been made in para 19 of the writ petition. This allegation has been categorically denied in the counter-affidavit filed by the contesting respondents in paras 18 and 23 of the counter-affidavit. In this connection, it is relevant to refer to para 8 of the rejoinder-affidavit filed by the petitioner wherein it has been stated... "appellate authority also allotted the said residential house of the petitioner which is situated in plot No. 1464 in the chak of the respondent Nos. 6 and 7..." However, no such ground was taken in the memo of revision itself.

8. Under the circumstances and in view of the conflicting pleadings in this regard by the petitioner, this Court is not prepared to accept that by the order impugned the Pakka house of the petitioner has been excluded from his chak. The petitioner is not clear as to by which order his alleged pucca house on plot No. 1464 has been excluded from his chak and included in the chak of the contesting respondents. In any case even if this allegation is taken on the face of it, the same is a disputed question of fact as the same has been categorically denied in the counter-affidavit. Such disputed questions of fact cannot be determined in a writ petition. However since the observation of the Deputy Director of Consolidation that by the amendment in the chaks made by him, the petitioner

would get a chak including his abadi, has not been challenged or disputed in the body of the writ petition, this Court is inclined to accept the observation by the Deputy Director of Consolidation as correct. Consequently the first submission of the petitioner is repelled.

9. The second submission of the learned Counsel for the petitioner that the Deputy Director of Consolidation has not assigned any reason for allotting plot No. 1464 to the contesting respondent, is also not established. Cogent reasons have been assigned by the Deputy Director of Consolidation inasmuch he has modified the chaks and allotted plot No. 1459 in the chak of the petitioner so as to include the area wherein his kachcha house exists. The contesting respondents have been shifted to plot No. 1464 saying that they are being shifted from one Udan to another Udan chak. The submission of the learned Counsel for the petitioner is therefore not substantiated from the material on record.

10. Under the circumstances I find no merit in the writ petition and the same is liable to be dismissed. Accordingly, the writ petition fails and is dismissed. No order as to costs.