

---

**(1986) 08 AHC CK 0083**  
**In the Allahabad High Court**  
**Case No : Writ Petition No. 1111 of 1986**

Asbaran

APPELLANT

Vs

Deputy Director of Consolidation and Another

RESPONDENT

---

**Date of Decision :** 20-08-1986

**Acts Referred:**

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 19, 19(1), 20, 48, 48(1)

**Citation :** (1986) RD 430

**Hon'ble Judges :** K.N. Misra, J

**Bench :** Single Bench

**Advocate :** H.S. Sahai, for the Appellant; P.L. Misra and L.P. Misra, for the Respondent

**Final Decision :** Dismissed

---

## Judgement

K.N. Misra, J.—This writ petition is directed against the order dated 21-1-1986 passed by the Deputy Director of Consolidation in revision u/s 48 of the U. P. Consolidation of Holdings Act (for short the Act) arising out of proceedings u/s 20 of the Act. Briefly stated the facts of the case, are as follows:

Petitioner, chak holder No. 4, was allotted three chaks in Sector Nos. 31,32 and 34. A second chak measuring 2.10 acres is said to have been allotted to him in Sector No. 32. It ran just across the chak road in the eastern side to the chak road. He was allotted this chak near his residential house and on the other side of Sector-Road in Sector No. 32, he was allotted said second chat measuring 2 10 acres as aforesaid. In Sector No. 34 Petitioner was allotted a small chak measuring 0.74 acres. It was also situate across the chak road.

2. An objection was filed by the Petitioner u/s 20 of the Act before the Consolidation Officer wherein he had prayed that he be allotted a chak east-west long taking plot No. 1855 etc. It may be mentioned at this stage that the Petitioner was allotted second chak on plot No. 150 etc. measuring 2.10 acres. In the objection, therefore, he had requested that this chak be made east-west long

This objection was considered by the Consolidation Officer along with certain other objections of other tenure holders and vide order dated 19-5-1982, the Petitioner's chaks were altered. The Petitioner thereupon filed appeal before the Settlement Officer, Consolidation, who decided the appeal vide order dated 07.02.1983 along with certain other appeals. By this order the Petitioner's chaks were altered as per amendment chart appended to the order, a certified copy of which has been annexed as Annexure 2 to this writ petition. By this order alteration was made in the Petitioner's chak allotted in Sector Nos. 31 and 32. Still feeling aggrieved the Petitioner had preferred revision which was heard along with certain other revisions filed by other tenure holders, i.e. Ram Kumar and Ram Piarey. These three revisions were disposed of by judgment and order dated 21-1-1985 and by it the Petitioner's chak was suitably altered by the Deputy Director of Consolidation. His third small chak measuring 0.74 acres in Sector NJ 34 was abolished and he was allotted chak in lieu thereof in Sector No. 32. The Petitioner has, thus, been allotted two chaks by the Deputy Director of Consolidation. This order has been challenged by the Petitioner in the present writ petition.

3. Learned Counsel for the Petitioner firstly contended that by the impugned order passed by the Deputy Director of Consolidation the area of the Petitioner's chak has been reduced by more than 25 per cent of the land originally held by the Petitioner. This, according to him, could not be done by the Deputy Director of Consolidation being violative of the provisions contained in proviso to Section 19(1)(b) of the Act. I do not find any merit in this contention.

4. It is not disputed that the Deputy Director of Consolidation has passed the impugned order after giving hearing to the parties. He has given cogent reasons for making alteration in the chaks of the Petitioner with that of opposite party No. 2 Ram Kumar. Thus, in the process of adjustment of chaks made by the Deputy Director of Consolidation while deciding revisions he could allot chaks to the parties, which he may deem fit and proper on the facts of the case in exercise of powers u/s 48 of the Act. The reduction in the allotted area to the extent of 28 per cent from that of the original holding appears to have occurred on account of the fact that the Petitioner has been allotted better quality of land of exchange ratio of 12 annals as against land taken out from his chak which was valued at exchange ratio of 8-10 annals, and, as such, allotment was made by the Deputy Director of Consolidation as he had found quite appropriate to do so and I find appropriate alteration has been made by the Deputy Director of Consolidation in making such allotment. Thus, in my opinion, the allotment of chak in question to the petitioner made by the Deputy Director of Consolidation would not be illegal as urged by the learned Counsel for the Petitioner on the ground of want of permission of Director of Consolidation as envisaged under proviso to Section 19(1)(b) of the Act because the Deputy Director of Consolidation, who exercises delegated powers of Director of Consolidation, would be taken to have impliedly permitted allotment of such chak while making appropriate alteration in the chaks of the parties by the impugned order passed

in Revision u/s 48(1) of the Act.

5. Similar question cropped up for Consideration before me in the case Sri Nath v. Deputy Director of Consolidation, Sultanpur 1986 AWC 248 wherein it was held:

The permission of the Director of Consolidation, as envisaged under the aforesaid proviso to Section 19(1)(b) would be necessary if the subordinate consolidation authorities would make allotment of a chak having difference of more than 25 per cent without obtaining prior permission. But where the Director of Consolidation or the Deputy Director of Consolidation, who exercises delegated powers of the Director of Consolidation under the Act, has made allotment of such a chak to a tenure-holder having a difference of more than 25 per cent in area, it would, in my opinion, not be invalid because the permission for such an allotment would be inherently manifest therein. If the Authority which is required to give permission to an allotment of chak having a difference in area by more than 25 per cent itself makes the allotment of such a chak in the process of making appropriate adjustment in the chaks of the parties while deciding a revision, it cannot be taken to be invalid and without jurisdiction and no interference would be called for by this Court in exercise of writ jurisdiction.

Thus, in view of the above I do not find any merit in the aforesaid contention of the learned Counsel for the Petitioner.

6. Learned Counsel for the Petitioner had next contended that the Petitioner has been allotted a Uran " chak in Sector No. 32 wherein he had held no land of his original holding. Learned Counsel had, thus, contended that the Deputy Director of Consolidation had acted illegally and without jurisdiction in abolishing the chak of the Petitioner from Sector No. 34 and in allotting that much of land as well adjacent to the " Uran " chak allotted to the Petitioner in Sector No. 32. I do not find any merit in this contention as well.

7. It is nowhere provided in Section 19 of the Act that a tenure-holder cannot be allotted a Uraa " chak, i.e. a chak having no plots of his original holding. The requirement u/s 19(1)(e) of the Act is that the tenure-holder, as far as possible, be allotted a compact area at places where he holds the largest part of his holding. According to Section 19(1)(f) a tenure-holder, as far as possible, is to be allotted plot on which exists his private source of irrigation or any other improvement, together with an area in the vicinity equal to the valuation of the plot originally held by him there. This provision contained in Section 19(1)(f) enjoins upon the consolidation authorities to allot plot on which exists his private source of irrigation or any other improvement. Apart from it, no other provisions of Section 19 of the Act enjoins upon the consolidation authorities to make allotment of chak to the tenure-holder on his original plot and the consolidation authorities in view of provisions contained in Section 19(1)(e) of the Act are required to allot, as far as possible, a compact area to the tenure-holder at place where he holds largest part of his holding. The words " as far as possible "

occurring in Section 19(1)(e) of the Act cannot be construed so as to give an unfettered discretion to the consolidation authorities in not making an allotment of a chak of compact area at place where the tenure holder holds his largest part of holding. It while making allotment of a chak to the tenure holder the Consolidation Officer finds it difficult to make allotment of chak to him of a compact area at a place where he held the largest part of his holding, then, he has to assign reasons for not doing so. If no good reasons are shown, the allotment would certainly be held to be irregular and cannot be sustained. The aforesaid provisions contained in Section 19(1)(e) of the Act, however, cannot be construed to make it imperative on the consolidation authorities to allot chak of compact area to a tenure holder imperatively including the plot of his original holding. The requirement of said provision, in my opinion, is that the tenure holder has to be allotted a chak of a compact area at a place where he holds the largest part of his holding and not on the plot of his largest part of holding. In making allotment of chaks equity amongst various tenure holders has got to be adjusted, and, as such, if it is not possible to include some of the original land of the tenure holder in the allotted chak, then the allotment of chak cannot be said to be invalid or without jurisdiction, on the ground that no plot of original holding of the tenure holder has been included in his chak although a chak of compact area has been allotted at a place and in the vicinity where the tenure holder holds the largest part of his holding. The requirement of allotting original plot of the holding to the tenure holder in his chak has been mandated only in Section 19(1)(f), according to which, if there exists private source of irrigation or other improvement on the plot in question, then it has got to be allotted in the chak of the tenure holder. The allotment of chak in violation of the provisions contained in Section 19(1)(f) would certainly make allotment illegal being violative of specific provisions. But in my opinion, an allotment of a " Urban " chak cannot be taken to be illegal and without jurisdiction if such a chak has been allotted at a place quite near the original land held by the tenure holder in its vicinity and not excessively exceeding the valuation of his original plots in that sector.

8. Thus, in view of the above, I find that no interference is called for with the impugned order by this Court in exercise of powers Under Article 226 of the Constitution merely on the ground that the tenure holder has been allotted a " Uraa " chak although he has been allotted a chak of compact area at the place where he had held original land of his holding. A " Urban " chak can be said to be irregular in those cases where the tenure holder is not allotted chak at a place in the vicinity of original land held by him in the Sector Area, but the allotment of a " Urban " chak to a tenure holder at a place quite near to his original plot of the holding cannot be said to be invalid merely on the ground that being a " Urban " chak it could not be legally allotted. I find that there exists no legal bar to the allotment of a " Urban " chak or prohibiting allotment of such a chak.

9. In the present case the Petitioner had held plot Nos. 1816, 1817, 1831, 1832, 1833, 1834, 1836, 1855, 1856, 1859/1, 1859/2, 1860, 1891 and 1893, etc. in that area. The Petitioner has been allotted two chaks namely chak No. 1 on the

eastern side of the chak road on plot No. 1874 etc. and the second chak on the western side of the chak road on plot No 1850 etc. facing the first chak. These two chaks are located near village Abad. It also appears that the Petitioner has been allotted these chaks at the place where he held land of largest part of his holding. The Petitioner has, thus, been rightly allotted these two chaks at the aforesaid places. The second chak of the Petitioner at plot No. 1850 etc. cannot be said to contain inferior land because I find that it contains good quality of land having exchange ratio of 10-12 annals while his third chak on plot No. 1876 etc. which has been abolished, contained most of land of the valuation of 8 annals exchange ratio. The Petitioner has now been allotted land adjacent to his second chak and these allotted plots are of the exchange ratio of 12 annals. Thus, the allotted land cannot be said to be in any manner inferior to the land which has been taken out from his third abolished chak.

10. In this view of the matter I do not find any error has been committed by the Deputy Director of Consolidation in making alteration in the chak of the parties and in view of what has been said above, I find no merit, in the writ petition.

11. In the result, the writ petition fails, and is accordingly dismissed being devoid of merits. Stay order dated 19-2-1982 is hereby vacated. No order as to costs. Petition dismissed.