
(2014) 04 AHC CK 0107
In the Allahabad High Court
Case No : Writ-B No. 21483 of 2014

Bachaie

APPELLANT

Vs

D.D.C.

RESPONDENT

Date of Decision : 22-04-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48(3), 52A

Citation : (2014) 124 RD 211

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : S.C. Tripathi, Advocate for the Appellant; Ajay Singh, Ambika Singh and S.S. Chauhan, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Anjani Kumar Mishra, J.—Heard Shri S.C. Tripathi, learned Counsel for the petitioner and Shri S.S. Chauhan who appears for the respondents. The writ petition has been filed praying for a writ of prohibition prohibiting respondent No. 1 the Deputy Director of Consolidation, Jaunpur from entertaining the proceedings initiated by respondent No. 4 bearing Misc. Case Nos. 5 and 6 of 2014.

2. Learned Counsel for the petitioner submits that:

1. The reliefs sought have been prayed for, on the ground that the Misc. applications filed by the petitioners, prayed for a reference being made for shifting the chaks of the applicant Lal Ji from plot No. 166 to plot No. 162 while the other application seeks a reference extending the chak road No. 162 to the Lohar Basti.

2. This reference proceedings have been sought not for implementation of any order passed but in fact to disturb the allotment made by the Deputy Director of Consolidation by his order dated 27.11.2012 which has become final.

3. The above noted applications are not maintainable and entertaining the same would amount to reviewing an earlier order passed by the Deputy Director of Consolidation himself which power the said authority does not possess.

4. On the applications filed, reports were called for, from the Assistant Consolidation Officer. The Assistant Consolidation Officer prepared a report including an adjustment chart, disturbing the petitioners chak and, this report has been sent directly to the Deputy Director of Consolidation when in fact it should have been forwarded to the Consolidation Officer who was required to forward it to the Settlement Officer, Consolidation who alone has jurisdiction to forward the same to the Deputy Director of Consolidation and the fact that this established procedure has been given a go by exhibits the mala fide intention of the Consolidation Authorities.

5. An objection has been filed by the petitioner regarding maintainability of the applications filed by the contesting respondents but the same is not being decided.

3. Shri S.S. Chauhan on the contrary submitted that the applications filed are primarily for providing a chak road to his client over bachat land and that the same would in no way effect in the chak of the petitioner who is therefore not an aggrieved party. The only aggrieved party will be the Gaon Sabha because the chak road is being sought over bachat land. He therefore submits that the writ petition is misconceived and merits dismissal.

4. From the rival submissions made by the Counsel for the parties, it is clear that the contesting respondents have sought a reference from the Deputy Director of Consolidation which power is provided u/s 48(3) of the U.P. Consolidation of Holdings Act. It is the undisputed legal position that this power is exercised to give effect to orders passed by the Consolidation Authorities. It is also the undisputed position that section 52A of the Act provides powers to the Collector of providing chak roads and chak guls in case there exists no provision or inadequate provision for the same.

5. Be that as it may, it is undisputed that the objection filed by the petitioner regarding maintainability of the applications filed by the contesting respondents has not been decided till date and is still pending consideration before the Deputy Director of Consolidation.

6. Under the circumstances, and without entering into the merits of the controversy, this writ petition is disposed of with a direction that the Deputy Director of Consolidation shall while deciding the applications filed by the contesting respondents also deal with and specifically decide the question of maintainability of these applications and only when he holds that the applications are maintainable will he proceed to pass any orders on the merits of the applications themselves. Accordingly and subject to the aforesaid directions, this writ petition is disposed of.