

(2011) 05 AHC CK 0405
In the Allahabad High Court
Case No : C.M.W.P. No. 29551 of 2011

Balram and Others

APPELLANT

Vs

Addl. District Magistrate (F/R)/Deputy Director Consolidation
and Another

RESPONDENT

Date of Decision : 20-05-2011

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 9A(2)

Citation : (2011) 5 AWC 5183 : (2011) 113 RD 638

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri Dharampal Singh learned Counsel for the Petitioner and Sri V.S. Kushwaha learned Counsel for the contesting opposite party No. 2.

2. This petition arises out of proceedings u/s 9A(2) of the U.P.C.H. Act. The claim is founded on the basis of adverse possession. The Consolidation Officer and the Settlement Officer Consolidation after assessing the evidence issued a declaration in favour of the Petitioner. The same has been reversed by the Deputy Director of Consolidation on the ground that the entry of adverse possession in Column 9 is not a valid entry and is unsupported in law. The Deputy Director of Consolidation came to the conclusion that the Settlement Officer Consolidation has erred in law in proceeding to record findings contrary to the provisions of Land Record Manual and the settled legal position.

3. Sri Dharampal Singh learned Counsel for the Petitioner contends that the oral evidence categorically indicates that the Petitioners were in adverse possession over the land in dispute therefore the findings recorded by the Consolidation Officer and the Settlement Officer Consolidation did not suffer from any infirmity. This long standing possession could not have been over looked by the Deputy Director of Consolidation.

4. Sri Kushwaha learned Counsel for the contesting Respondent on the other hand contends that the reliance placed by the Petitioner on the entries beginning from 1368-F cannot be taken into account as they are not lawful entries and the alleged adverse possession on the basis of the said entries cannot be claimed as the basis of title by the Petitioner. Reference may be had to the decision in the case of Bachan v. Kankar 1972 RD 219

5. Having heard learned Counsel for the parties and keeping in view the submissions raised the Deputy Director of Consolidation after having discussed every provision of the Land Record Manual has drawn his conclusion which in the opinion of the Court is in consonance with the law laid down as noted herein above.

6. The Apex Court in the case of Bachan (supra) has held that in order to claim title, the entries have to have a lawful introduction in the revenue records. In the instant case there is no explanation on behalf of the Petitioners as to how their names found entered in 1368-F and thereafter. In the absence of any authority or any endorsement in the records authenticating such entries, the claim appears to be absolutely unfounded.

7. The Deputy Director of Consolidation therefore has not committed any illegality in reversing the order of the Settlement Officer Consolidation and the Consolidation Officer.

8. The writ petition lacks merit and is accordingly dismissed.