
(2008) 07 AHC CK 0107

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 30529 of 2008

Chandan Singh and others

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 02-07-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 07 AHC CK 0107

Hon'ble Judges : Ran Vijai Singh, J

Judgement

Ran Vijai Singh, J.—This writ petition has been filed challenging the order dated 23.5.2008 passed by SubDivisional Magistrate, (in short S.D.M.) Dhampur. By the impugned order the S.D.M, has directed the Tehsildar, Dhampur to make available the descriptions of the land mentioned in category V and further directed the Gram Sabha to organize meetings for allotment of the land to other eligible persons on 30.5.2008. It appears that the aforesaid order has been passed pursuant to the orders of the Consolidation Authorities.

2. Learned Counsel for the petitioners submits that they are affected by this order. The petitioners apprehend that in view of the order passed by the S.D.M. the petitioners land be allotted to some other persons, whereas they are the valid patta holders and patta is continuing since long and the matter is still sub judice before the Consolidation Officer. Learned Counsel for the petitioner further submits that the impugned order has been passed without affording an opportunity of hearing to the petitioners.

3. The facts giving rise to this case are that the petitioners are the Asami Patta Holders and pattas were granted to the respective petitioners in between 1962 to 1985. The petitioners have never been evicted and they are still in possession over the land. However, in the consolidation proceeding the consolidation officer has cancelled the entries of the names of the petitioners (the allottees) vide, order dated 10.2.2005. The petitioners have filed an appeal under section 11 of Consolidation of Holdings Act before the Settlement Officer Consolidation. The

appeal was dismissed. However, aggrieved from the above order the petitioners filed Revisions Nos. 1292, 1285, 1290, 1281, 1284 of 2007 before Deputy Director of Consolidation. The Deputy Director of Consolidation has allowed the revisions and remanded the matter to the Settlement Officer Consolidation for fresh decision. During the pendency of the aforesaid matter the Consolidation Officer passed the impugned order.

4. I have heard Sri V.K. Jaiswal, learned Counsel for the petitioner, learned Standing Counsel and learned Counsel appearing for the Gram Sabha. It is not disputed that the order dated 23.5.2008 is a general order and there is no specific direction for the eviction of the petitioners and the allotment of land held by them to other persons. But the petitioners apprehension appear to be justified as in the garve of this order, the land possessed by the petitioners may also be allotted to some other persons by the Revenue Authorities.

5. In view of that the writ petition succeeds and is allowed. However, the Court is not quashing the order dated 23.5.2008 because it is a general order, but it is clarified that in view of that petitioners, land be not touched. It is also observed that the Consolidation Officer shall decide the case pending before him relating to the petitioners expeditiously, if possible within a period of six months. The petitioner are directed to cooperate in the hearing. If further provide that no unnecessary adjournment be given to the Counsel for the parties and in case parties avoid to participate in hearing the consolidation officer concerned shall be at liberty to proceed with the matter ex parte.