**(2015) 03 AHC CK 0149**

**In the Allahabad High Court**

**Case No :** Writ-B No. 15686 of 2015

Dallu APPELLANT

Vs

Dy. Director of Consolidation and Others RESPONDENT

**Date of Decision :** 25-03-2015

**Acts Referred:**

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

**Citation :** (2015) 127 RD 817

**Hon'ble Judges :** Ram Surat Ram (Maurya), J

**Bench :** Single Bench

**Advocate :** Ramesh Chandra Tiwari, for the Appellant

**Final Decision :** Dismissed

# Judgement

Ram Surat Ram (Maurya), J.

1. Heard Sri Ramesh Chandra Tiwari for the petitioner and Sri Brajesh Shukla for the contesting respondents. The writ petition has been filed against the order of Settlement Officer, Consolidation dated 16.10.2014 and the Deputy Director of Consolidation dated 6.2.2015 by which the application for transferring the case from the Court of Consolidation Officer, Rahra, district Amroha to any other Court of competent jurisdiction of the cases under section 9-A(2) of U.P. Consolidation of Holdings Act, 1953(hereinafter referred to as "the Act") has been rejected and revisions filed by the petitioner have been dismissed.

2. The contesting respondents filed three separate cases under section 9-A(2) of the Act for recording their names on the basis of sale deeds executed by the petitioner in their favour. The petitioner appeared before the Consolidation Officer and filed a counter objection stating that the sale-deed has been procured by committing fraud upon the petitioner without paying any sale consideration. On coming to know about the sale-deed the petitioner has filed a civil suit before the Court of Civil Judge (Junior Division), Hasanpur, district Amroha, for cancellation of sale-deed which is pending. The petitioner has also filed a criminal case

against the contesting respondents as well as their witnesses for committing fraud upon the petitioner as such proceeding under section 9 of the Act be postponed. However, the Consolidation Officer proceeded with the case and after framing issues he recorded the evidence of the contesting respondents. Thereafter the petitioner moved an application before the Consolidation Officer for recalling the witnesses. The application was rejected by the Consolidation Officer and the order has been challenged in appeal, revision as well as writ petition but ultimately it has been upheld by this Court. Thereafter the petitioner filed an application before the Settlement Officer, Consolidation for transferring the case from the Court of Consolidation Officer, Rahra. In the application it has been stated that although the petitioner has prayed for recalling the witnesses examined by the contesting respondents but the Consolidation Officer has rejected the application and proceeded to decide the case in their favour. The petitioner has no hope of justice from the Consolidation Officer, Rahra, accordingly, his case be transferred from the Court of Consolidation Officer, Rahra to any other competent court. The Settlement Officer, Consolidation by impugned order dated 16.10.2014 found that the allegation made for transferring the case was not a substantial allegation and on this allegation the case could not be transferred. Accordingly, the transfer applications were rejected and the revisions filed by the petitioner have also been dismissed. Hence this writ petition has been filed.

3. I have considered the arguments of the Counsel for the parties.

4. A perusal of the transfer application shows that the order of the Consolidation Officer rejecting the application of the petitioner for recall of the witnesses for cross-examination has been upheld upto this Court. In such circumstances the Consolidation Officer has no option but to proceed with the case. A further allegation has been made that the Consolidation Officer on the basis of bribe wants to decide the case in favour of the contesting respondents. There is no specific allegation regarding bribe and a wholly vague allegation has been made. The Settlement Officer, Consolidation did not find any substance in this allegation. In such circumstances the order dated 16.10.2014 passed by the Settlement Officer, Consolidation rejecting the transfer application of the petitioner does not suffer from any illegality.

5. The Counsel for the petitioner submits that the Consolidation Officer was so much prejudiced with the petitioner that even though the Deputy Director of Consolidation while dismissing the revision of the petitioner by order dated 6.2.2015 directed the parties to appear before the Consolidation Officer on 23.2.2015 but the Consolidation Officer has decided the cases by order dated 12.2.2015. A perusal of the order dated 12.2.2015 shows that after passing of the order dated 6.2.2015 the petitioner appeared before the Consolidation Officer on 9.2.2015. A perusal of the order dated 9.2.2015 shows that the certified copy of the order of the Deputy Director of Consolidation dated 6.2.2015 was not filed before the Consolidation Officer. The application for certified copy of the order,

 

which has been filed in the writ petition was filed on 9.2.2015, which was received on 11.2.2015. In such circumstances hearing was done by the Consolidation Officer as there was no interim order from the Court of Deputy Director of Consolidation and he has decided the cases finally by order dated 12.2.2015. Thus, there is no illegality in it. The petitioner has already filed an application for recall of the order and that will be decided on merit in accordance with law but this will not be the ground for transferring the case. The writ petition has no merit and it is dismissed.

 