
(2014) 09 AHC CK 0183
In the Allahabad High Court
Case No : Consolidation No. 579 of 2014

Dilip Singh

APPELLANT

Vs

D.D.C.

RESPONDENT

Date of Decision : 05-09-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 42A

Citation : (2014) 125 RD 286

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

Bench : Single Bench

Advocate : P.K. Jaiswal, Advocate for the Appellant; Umesh Chandra Vishwakarma, Advocate for the Respondent

Judgement

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Ram Surat Ram (Maurya), J.—Supplementary affidavit filed today in Court is taken on record. Heard Shri P.K. Jaiswal, Counsel for the petitioner and Shri Umesh Chandra Vishwakarma, Counsel for the respondents No. 3 and 4.

2. In the facts of the case, Counsel for the respondent does not propose to file any counter affidavit.

3. The writ petition has been filed against the orders of Deputy Director of Consolidation dated 29.1.2003, 20.10.2004 and 10.6.2014 passed in check allotment proceedings under U.P. Consolidation of Holdings Act, 1953.

4. Counsel for the petitioner submits that the chak revisions were decided by Deputy Director of Consolidation by order dated 26.9.2001. One Dharam Singh filed an application for recall of the order which has been rejected by Deputy Director of Consolidation by order dated 21.3.2002. Respondents Nos. 3 and 4 are transferee of Dharam Singh. Dharam Singh filed an another application for recall of the order dated 26.9.2001 and the Deputy Director of Consolidation passed the order dated 29.1.2003 allowing the restoration application and setting aside the order dated 21.3.2002. Dharam Singh thereafter filed an

application under section 42A of the Act for making correction in the order dated 29.1.2003 on which the Deputy Director of Consolidation passed the order dated 20.10.2004 and the order dated 26.9.2001 was set aside. Thereafter, the petitioner moved an application for recall of the aforesaid order which was rejected by Deputy Director of Consolidation by order dated 21.11.2012 and the date for hearing the matter on merit was fixed. The petitioner filed a writ petition before this Court i.e. Consolidation No. 75 of 2013 in which this Court by order dated 1.2.2013 directed the Deputy Director of Consolidation to decide the proceeding considering the grounds raised by the petitioner. Ultimately the Deputy Director of Consolidation by his order dated 10.6.2014 dismissed the revision of the petitioner and affirmed the order of the Settlement Officer, Consolidation dated 2.8.1999.

5. Counsel for the petitioner submits that the revision was finally decided by Deputy Director of Consolidation by order dated 26.9.2001 and revision of the petitioner was allowed. The recall application filed by Dharam Singh was rejected on 21.3.2002 as such Deputy Director of Consolidation has no jurisdiction in the matter to pass any fresh order. He further submits that subsequent recall application has been allowed on the same day on 29.1.2003 without issuing any notice to the petitioner and thereafter again by an ex-parte order dated 21.9.2003 he allegedly corrected and set aside the order dated 26.9.2001. Virtually effect of these two orders is reviewing the order dated 26.9.2001, and 21.3.2002. Respondents Nos. 3 and 4 were transferee of Dharam Singh. Recall application of Dharam Singh has already been rejected by order dated 21.3.2002. Subsequent applications were not maintainable. Respondents Nos. 3 and 4 are subsequent transferee, they are bound by order passed against Dharam Singh. However, the Deputy Director of Consolidation without considering the ground raised by the petitioner has not only allowed the recall application but dismissed the revision of the petitioner which was finally allowed by the order dated 26.9.2001.

6. A perusal of the order dated 29.6.2001 shows that the revision was decided on merit and this order was challenged by Dharam Singh by filing a recall application and his application was rejected after hearing on 21.3.2002, Therefore, the subsequent application moved by Dharam Singh was not maintainable and order passed in it are without jurisdiction has held by Full Bench of this Court in Smt. Shivraji (Decd.) through L.Rs. and Others Vs. Dy. Director of Consolidation and Others, , and another Full Bench of this Court in a case of Smt. Anar Kali v. Deputy Director of Consolidation 1997 (15) LCD 921. In the result, writ petition succeeds and is hereby allowed. Orders of Deputy Director of Consolidation dated 29.1.2003, 20.10.2004 and 10.6.2014 are set aside. However, if respondents Nos. 3 and 4 feel aggrieved by the original order of Deputy Director of Consolidation dated 26.9.2001 and 21.3.2003 they may challenge on merit in proper proceedings.