

(2006) 10 AHC CK 0216
In the Allahabad High Court

Harpal Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-10-2006

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 4A(2)

Citation : (2006) 10 ADJ 772 : (2007) 2 AWC 1247 : (2006) 2 RD 792

Hon'ble Judges : Krishna Murari, J

Bench : Single Bench

Judgement

Krishna Murari, J.—This writ petition has been filed by 51 tenure- holders of village Chindauri Tehsil Sardhana district Meerut claiming a writ of mandamus to direct the consolidation authorities to reassess the valuation of the plots, trees, wells and other improvements and also to record correct shares of the co-tenure holders in the holdings and accordingly, issue fresh C.H. Form No. 5 and then proceed with the consolidation operation. A further relief of certiorari has been claimed to quash the entire proceedings undertaken by the authorities after order of remand dated 17.5.1989, passed by the Settlement Officer Consolidation.

2. Briefly stated the facts are as under:

The village in question was notified for consolidation operation vide notification issued u/s 4A(2) of U.P. Consolidation of Holdings Act (for short "the Act") published in Gazette dated 10.7.1980. After publication of the provisional consolidation scheme various objections were filed by the tenure-holders on the ground that a large number of illegalities and irregularities have been committed by the sub-ordinate consolidation staff in revision of filed books, determination of valuation of the plots and exchange ratio, etc. Against the order passed by the Consolidation Officer . 72 appeals were filed before the Settlement Officer Consolidation who consolidated all the appeals and vide order dated 17.5.1989 set aside the provisional consolidation scheme and directed to prepare a fresh scheme after redetermination of the valuation of the plots in the presence of the

parties, making provision for chak road, nali. etc. After the aforesaid order, the matter remained pending. The consolidation authorities again restarted consolidation proceedings sometimes in 2004 and January, 2005, without framing fresh consolidation scheme as directed by Settlement Officer Consolidation in its order dated 17.5.1989. Aggrieved the petitioners made representations dated 5.4.2005 and 2.5.2005 before the Consolidation Commissioner. The Consolidation Commissioner, after considering the representation filed by the petitioners, vide order dated 21.5.2005, directed the Settlement Officer of Consolidation to ensure compliance of the order dated 17.5.1989. Still when nothing was done by the consolidation authorities to frame a fresh consolidation scheme the petitioners have approached this Court.

3. Pleadings have been exchanged between the parties and with the consent of the learned Counsel for the parties, the writ petition is being disposed of at the admission stage itself.

4. It has been vehemently urged by learned Counsel for the petitioners that without complying with the direction contained in the order of remand dated 17.5.1989 and framing fresh consolidation scheme as directed by the aforesaid order, the sub-ordinate consolidation staff has restarted the consolidation operation which is totally illegal and without jurisdiction. It has further been urged that since 1982, when the village was notified for consolidation operation, 23 years have passed and during this period the valuation of the land has drastically changed on account of various improvements made by the tenure-holders and as such, unless a fresh valuation and exchange ratio is determined, the tenure-holders would suffer irreparable loss.

5. Sri N.C. Rajvanshi, senior advocate appearing for various tenure-holders, who have sought impleadment in the writ petition, has urged that vide order dated 17.5.1989. only valuation of plot No. 244 and adjacent plots, plots of lease holders and plots of Gaon Sabha was directed to be revalued. He also urged that in pursuance of the order of remand, a meeting between consolidation committee and tenure- holders was held in which it was resolved that tenure-holders of plot No. 244 shall be allotted their original holding and lease holder shall be given their original plots and as such, there was no need to refix the exchange ratio.

6. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

7. My attention has been drawn to the paragraphs of the counter-affidavit wherein these averments have been made which have been denied by the petitioners in the rejoinder-affidavit.

8. Thus, it is a disputed question of fact whether the order of remand by Settlement Officer Consolidation dated 17.5.1989 has been carried out by the subordinate consolidation authorities or not and fresh consolidation scheme has been prepared in compliance of the said order.

9. Be that as it may, it is undisputed that after remand made in 1989, the consolidation proceedings were stalled and were restarted afresh sometime in 2005, i.e., after lapse of 15 years. The fact cannot be denied that during this long period, the valuation of the land must have drastically changed on account of improvement made by the tenure-holders. This fact has not been seriously disputed by Sri N.C. Rajvanshi. In case if the consolidation proceedings are allowed to continue without determining fresh valuation of the plots as of now and fresh exchange ratio not only it will put all the tenure-holders of the village to a colossal loss but would also frustrate the purpose for which the consolidation operation is undertaken.

10. In view of the aforesaid fact, without entering into the question as to whether the order of remand dated 17.5.1989, passed by the Settlement Officer Consolidation was only confined to plot No. 244 and other adjacent plots and the land belonging to Gaon Sabha etc. and the direction contained therein have been carried out or not, in the facts and circumstances, interest of justice requires that a fresh provisional consolidation scheme be prepared after redetermining the valuation and exchange ratio in accordance with law to ensure fair and proper allotment of land to the tenure-holder of the village.

11. Considering the facts and circumstances, the writ petition is disposed of with the direction to respondents authorities to prepare fresh consolidation scheme after redetermining the valuation of the plots as of now and the exchange ratio in accordance with the provision of the Act and Rules framed thereunder and thereafter, frame a fresh provisional consolidation scheme. Since much time has elapsed since the notification u/s 4 of the Act was issued, it is expected that authorities shall proceed as expeditiously as possible in the matter.