

(2010) 05 AHC CK 0281
In the Allahabad High Court

Jagdish Singh and Others

APPELLANT

Vs

D.D.C./Chief Revenue Officer and Others

RESPONDENT

Date of Decision : 04-05-2010

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48

Citation : (2010) 05 AHC CK 0281

Hon'ble Judges : Y.K. Sangal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Y.K. Sangal, J.—Heard learned Counsel for the petitioners, learned Counsel for the opposite parties, learned Standing Counsel for the State and perused the record.

2. Both these writ petitions are filed by the petitioner challenging the order of Deputy Director of Consolidation passed on 31.01.1995 in Proceedings u/s 48 of Consolidation of Holdings Act. Both the revisions were allowed and order of Consolidation Officer dated 06.12.1984 were set aside. As common questions are involved in both the matters so these are being taken simultaneously.

3. Ground of challenge and pressed in both the matter are that opportunity of hearing/arguments was not allowed to the revisionists by the learned Deputy Director of Consolidation and both the cases were decided in a hurried manner.

4. Transfer application was moved before the Commissioner, Consolidation Uttar Pradesh, Lucknow for transferring both the revisions to the other court. Personal allegations were levelled against the Deputy Director of Consolidation/Presiding Officer of the Court. Learned Commissioner had passed order on 22.04.1994 in Case of Transfer Application for maintaining status-quo in the cases. Learned Counsel argued that this order was in force till 31.01.1995. Learned D.D.C. was informed about the order passed by the Commissioner. Even then without caring the order passed by the Commissioner, both the cases have been decided by him

on 31.01.1995. This shows that how much he was interested in deciding the cases.

5. Learned Counsel for the respondents argued that it is correct that it is correct that order for maintaining the status quo were passed by the Commissioner on 22.04.1994 but this order was in force upto 16.05.1994 only. Later on learned Commissioner has not extended the date of the stay order so learned D.D.C. has rightly decided the case on 31.01.1995. Learned Counsel for the petitioner argued that it is established law that once an order for staying the further proceedings in the matter is passed, it remains in force till the order is not withdrawn by a specific order, so no help of this argument of learned Counsel for the respondents can be allowed. Argument of learned Counsel for the petitioner is not without force in the facts and circumstances of the case. Moreover, from perusal of the impugned order in Revision No. 7595 of 1995 it reveals that written arguments were submitted on behalf of the respondent in the matter and case was fixed for judgment on 31.01.1995. An application was moved on behalf of the petitioners to afford opportunity to them for arguments in the matter. This application was allowed and till the date fixed in the matter i.e. up to on 31.01.1995, they were permitted to get argued the matter. This shows that learned Deputy Director of Consolidation was not going to pronounce the judgment on 31.01.1995 and till that date petitioners were permitted to get argued the matter but no arguments were raised on that date and judgment was pronounced. Learned Counsel for the petitioner shows that it was a simply a formality fixing the date for arguments on 31.01.1995. Judgment was already ready and the same was pronounced on the date fixed.

6. One thing is clear from the above facts and record that petitioners were not heard by the learned D.D.C before pronouncing the judgment in the matter. In the transfer application case, some date of February, 1995 was fixed by the learned Commissioner. Allegations were made against the Deputy Director of Consolidation on behalf of the petitioner. Even then without affording the opportunity of hearing, impugned judgement were passed by him. Written arguments on behalf of the revisionist were taken on record. No opportunity was allowed to the petitioners for filing their written arguments in reply. It is established law that non affording opportunity of hearing causes prejudice to the party concerned. It was held so by the apex Court in S.L. Kapoor Vs. Jagmohan and Others,

7. In the facts and circumstances of the case, considering the arguments and after going through the record, I am of the view that as no opportunity of hearing /arguments was allowed to the petitioners and in the interest of justice, the same is required.

8. Both the judgments and orders passed by the D.D.C. are set aside and the matter is remitted back to the court of D.D.C. with the direction that after giving opportunity of hearing / arguments to the parties, afresh judgment be passed in the matter. However, parties are directed to appear before the court of D.D.C. on

17th May, 2010 and learned D.D.C. will fix some date for arguments in the matter. No adjournment shall be allowed to either party in the matter and it is expected from the learned D.D.C. that he will finally dispose of both the cases within one month from the date when certified copy of this order is placed before him. Copy of this order be placed on the other file of Writ Petition No. 74 (Cons.) of 1995.