
(2015) 05 AHC CK 0246
In the Allahabad High Court
Case No : Writ B. No. 53720 of 2003

Jagnandan and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 06-05-2015

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 21, 9-B

Citation : (2015) 128 RD 644

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

Bench : Single Bench

Advocate : R.C. Kandpal, Bishram Tiwari, D.P.S. Chauhan and Ram Saran Giri, for the Appellant; Anuj Kumar and V.K. Singh, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ram Surat Ram (Maurya), J—Heard the learned Counsel for the petitioner, learned Standing Counsel for State of U.P. and Shri Ajit Kumar Singh holding brief of Shri Ajay Kumar, for respondent No. 4. The writ petition has been filed against the order of Assistant Settlement officer of Consolidation dated 30.6.1993 and the Deputy Director of Consolidation dated 26.8.2003.

2. It is alleged that plot No. 5214, 6414, 6415 and 6416 of Village Baragaon Pargana District Banda, were original holding of the petitioner. Initially the valuation of these plots were determined @ 30 paisa.

3. The petitioner filed an objection under section 9-B of U.P. Consolidation Holdings Act. The Consolidation Officer after spot inspection and after hearing the consolidation committee by order dated 23.3.1990 enhanced the valuation of the aforesaid plots from 30 paisa to 70 paisa. This order was not challenged by any one.

4. It appears that there had several chak appeals under section 21 of the Act which were consolidated and decided by Assistant Settlement Officer of Consolidation, Banda. It is alleged that the petitioner was not given any notice of

the chak appeals. However, Assistant Settlement Officer Consolidation, Banda by the order dated 30.6.1993 not only disturb the chak of the petitioner but also reduced the valuation of the original holding of the petitioner of plot Nos. 5214, 6414, 6415 and 6416 from 70 paisa to 10 paisa. Due to order of Assistant Settlement Officer Consolidation, material prejudiced has been caused to the petitioner. Therefore, the transferor of the petitioner filed a revision before Deputy Director of Consolidation. The Deputy Director of Consolidation by the order dated 26.2.2003 decided the revision along with the chak revision but dismissed the revision only on the ground that transferor of the petitioner has already sold her chak as such the revision filed by her was not maintainable. Thereafter, the petitioners filed a separate revision. The Deputy Director of Consolidation by subsequent orders dated 26.8.2003 found that as the order of Settlement Officer of Consolidation has already been upheld by the order dated 26.5.2003 as such he had no jurisdiction to pass a fresh order in the matter.

5. Hence this writ petition has been filed.

6. The learned Counsel for the petitioner submits that the valuation of plot of the petitioners were reduced in chak allotment proceeding without there being any appeal against the order of Consolidation Officer dated 23.3.1990. He submits that without giving any opportunity of hearing and notice to the petitioners, the valuation of the plots of the petitioners had been reduced due to which material prejudice has been caused to the petitioners.

7. The revision of the transferor of the petitioner was dismissed on the ground that she had already sold the land in dispute. Although pendente lite transfer will not affect the right of the transferor and she was entitled to challenge the orders. Thereafter, the revision of the petitioners was filed but it has been rejected relying upon the earlier order. Thus the grievance of petitioners was not considered at all.

8. I have considered the argument of the Counsel for the petitioners. A perusal of the order of Assistant Settlement Officer of Consolidation shows that there is no finding in respect of the determination of valuation of various plots. However, the amendment chart attached to the order mentioned that valuation of Plot No. 5214, 1701 has been determined @ 30 paisa and valuation of plot No. 6414, 6415, 6416 had been determined @ 10 paisa due to which total valuation of 153.14 ana of the petitioners has been deducted from the total valuation of their chak. Without there being any finding, the valuation has been reduced. The revision of the petitioners as well as their transferor were dismissed on the technical ground. Thus the grievance of the petitioners also has not been examined by any of the authority. He submits that all the surrounding plots of the petitioners were determined @ 70 paisa. The Consolidation Officer also made spot inspection in presence of members of consolidation committee and found that quality of the land of the original holding of the petitioners were the same as of the surrounding plots. Therefore, the equal valuation has been determined but without there being any consideration on merit, the valuation has been reduced.

In the result, the writ petition succeeds and is allowed. The orders of the Settlement Officer of Consolidation dated 30.6.1993 and Deputy Director of Consolidation dated 26.2.2003 and 26.8.2003 are set aside. The matter is remanded back to the Deputy Director of Consolidation who will re-admit the revision of the petitioner and after giving notice to the affected parties will decide the revision afresh on merit. Since the matter is very old, the Deputy Director of Consolidation shall decide the revision expeditiously preferably within a period of four months from the date of production of certified copy of this order before him.