
(2014) 08 AHC CK 0270
In the Allahabad High Court
Case No : C.M.W.P. No. 34258 of 2007

Jay Prakash

APPELLANT

Vs

Dy. Director of Consolidation

RESPONDENT

Date of Decision : 12-08-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 4, 6, 6(1), 6(2), 9A(2)

Citation : (2014) 11 ADJ 13 : (2014) 125 RD 484

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : S.K. Tyagi, Advocate for the Appellant; P.K. Singh, Advocate for the Respondent

Judgement

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Anjani Kumar Mishra, J.—This application has been filed by Sri R.K. Singh, learned Counsel for respondent No. 4 praying that the writ petition be dismissed as abated as village Ekari, Pargana and Tehsil Sardhana, District Meerut where in the land in dispute in the instant writ petition is situate, is no longer under consolidation operations as these operations have been cancelled by a notification dated 31.3.2010 under section 6(1) of U.P. Consolidation of Holdings Act (For short "the Act"). By this notification, the earlier notification issued under section 4, of the Act has, been cancelled. This writ petition is directed against orders whereby an application filed by the petitioner for summoning certain documents; has, been rejected by the appellate authority and such order has been affirmed, in revision by the Deputy Director of Consolidation, Meerut holding the revision to be not maintainable, being directed against an interlocutory order.

2. It is admitted between the parties that the appeal arising out of proceedings under section 9-A(2) of the Act is pending consideration before the Settlement Officer of Consolidation, Meerut and the application for summing the documents was filed in this appeal.

3. From the facts noticed above, it is clear that no final orders have been passed in the appeal itself and the lis between the parties has not attained finality.

4. Section 6(2) of the Act provides that on issuance of a notification under section 6(1) in respect of a unit, the said unit ceases to be under consolidation operations with effect from the date of notification "subject to the final orders relating to correction of land records." In the case at hand, the objection under section 9-A(2) was decided, by the Consolidation Officer, Meerut (the CO). An appeal was filed against the order of the CO which is pending consideration and therefore it can be said, that the proceedings have not attained finality, therefore, the dispute between the parties is not covered out by exception carved by sub-section (2) of section 6.

5. Irrespective of the decision of this writ petition, the controversy between the parties yet to be decided at the appellate stage and therefore since the order of the GO has not attained finality on account of pendency of the appeal itself, the proceedings are liable to be abated once the consolidation operations in the unit have been cancelled.

6. Although this writ petition is not continuation of the proceedings itself and therefore not covered by the exception carved out toy section 6(2), still as already noticed above, irrespective of the decision in the writ petition, which is directed against orders at the interlocutory Stage of the proceedings, the dispute has yet to be decided at the appellate stage. Therefore, no useful purpose is going to be served by deciding the writ petition. An interim order is operating in the writ petition. As soon as this order is vacated the proceedings will start before the Settlement Officer Consolidation but such proceedings cannot continue as consolidation operations have been cancelled by the notification under section 6(1) of the Act. The dispute in the instant writ petition, under the circumstances is now rendered a purely academic issue and will not effect the appeal pending between the parties which will have to abate due to the notification under section 6(1). I therefore see no justification to decide the petition on" merits as such decision will be a purely academic pronouncement having no bearing on the lis between the parties. Such lis which will now have to be raised and decided by the Competent forum as the forum of the consolidation Courts has ceased to be available to the parties on the cancellation of consolidation operations by the notification under section 6(1) of the Act. Under the circumstances, this writ petition which arises out of an interlocutory order passed by the Settlement Officer Consolidation in appeal, the writ petition is dismissed and the application of the respondent is accordingly allowed.