
(1972) 11 AHC CK 0004
In the Allahabad High Court
Case No : Sp. A. No. 19 of 1972

Kanahi

APPELLANT

Vs

Roop Ram

RESPONDENT

Date of Decision : 14-11-1972

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48
Uttar Pradesh Consolidation of Holdings Rules, 1954 — Rule 111

Citation : (1973) 43 AWR 33

Hon'ble Judges : Satish Chandra, J;N.D. Ojha, J

Bench : Division Bench

Advocate : B.L. Yadav, for the Appellant; K.B.L. Gaur and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Satish Chandra, J.—Aggrieved against the order of the Settlement Officer (Consolidation) holding that the Appellants were co-tenants, the Respondents filed a revision. The Dy. Director of Consolidation dismissed the revision on two grounds. He held that since a copy of the order of the Consolidation Officer was not filed along with the memorandum of revision, the revision was incompetent; and on the merits, he agreed with the findings of the Settlement Officer. The order of the Dy. Director was challenged by the respondents in a writ petition. A learned Single Judge held that since a copy of the judgment of the Consolidation Officer had been filed by the time the revision came up, for hearing, it was not proper for the Dy. Director to have dismissed the revision on a technical ground. He should have considered the merits. The learned Judge also expressed the opinion that the Dy. Director had not appropriately considered the evidence on record. He has given no findings of his own. The judgment was sketchy and unsatisfactory. On these findings, the order of the Dy. Director was quashed and the case was sent back for a fresh decision.

2. In the present appeal it was urged that since the copy of the judgment of the

Consolidation Officer was not filed within the time prescribed for it by R. 111 of the U.P. Consolidation of Holdings Rules, the revision was not maintainable. The Dy. Director had no jurisdiction to enter into its merits. He should have dismissed it on the ground that it was not maintainable. In support, reliance has been placed upon the decision of a Division Bench of this Court in Ram Nath v. Deputy Director 1970 AWR 821. For the Respondents, however, our attention was invited to another division bench decision in Abdul Junaid v. Deputy Director 1972 AWR 292. In Ram Nath's case, it was held that even if R. 111 is hold directory that will only (sic) who wants to file a (sic) with it substanti-(sic) may file the copies (sic) and the Director can, in a fit case, (sic) the same even if they had not been filed at the proper time. He may require the litigant to give an explanation for, the delay and if he is satisfied that the cause for the delay was not sufficient be will be within his powers in refusing to "entertain" such a defective revision. If the revision was for any reason defective and there was no sufficient cause to explain the defect or the delay, the Dy. Director will refuse to "entertain" the revision.

3. In Abdul Junaid's case, the Court was considering the situation arising upon the passing of an order by the Dy. Director calling for the record. Such, an order is passed after the revision has been entertained. After the calling of the record, the only thing required to be done is to hear and decide the case on The division bench emphasised that S. 48 of the U.P. Consolidation of Holdings Act confers powers upon the Director to be exercised accordingly to the needs of justice. The applicant really recedes into the backgrounds after the Court has called for the record. After the record has been called for, it is incumbent upon the authority to decide the case according to its justice; because he has powers to exercise the revisional powers suo motu. He can and should interfere suo motu to do justice. After he has sent for 3 record, he should not dismiss the revision On a mere technical ground.

4. In our opinion, there is no conflict between these two decisions. Ram Nath's case deals with the entertainment of a Revision. Abdul Junaid's case refers to the later stage of hearing after calling for the record, which stage arrives after the revision has been entertained.

5. In the present ease, Abdul Junaid's decision is applicable, because here the Deputy Director had called for the record., Even though the copy of the Consolidation Officer's judgment was not filed till then, after having called for the record, it was incumbent upon the Dy. Director to proceed to decide the case on merits.

6. We have perused the judgment of the Dy. Director. We are in agreement with the learned Single Judge that the order of the Dy. Director is (sic) has given no findings of (sic) learned Single Judge was (sic) justified in sending the case (sic).

7. In the result, the appeal fails and is accordingly dismissed with costs.