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**(2014) 04 AHC CK 0343**  
**In the Allahabad High Court**  
**Case No : Writ-B No. 16496 of 2014**

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|---------------|----|------------|
| Lalasa        | Vs | APPELLANT  |
| State of U.P. |    | RESPONDENT |

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**Date of Decision :** 03-04-2014

**Acts Referred:**

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 11A, 19A(2), 8(1)(i), 9, 9(1)

**Citation :** (2014) 123 RD 371

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

**Bench :** Single Bench

**Advocate :** A.P. Tiwari, Advocate for the Appellant; S.N. Tripathi, Advocate for the Respondent

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## Judgement

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Ram Surat Ram (Maurya), J.—Heard Sri A.P. Tiwari, for the petitioner and S.N. Tripathi, for the contesting respondents. This writ petition has been filed against the orders of Settlement Officer Consolidation dated 28.2.2013 and Deputy Director of Consolidation dated 18.12.2013 passed in chak allotment proceedings under U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the Act).

2. Plots 169/2 (area 0.012 hectare), 170 (0.012 hectare) and 171 (area 0.032 hectare) were the original holdings of the petitioners along with other plots. The petitioner was proposed three chaks i.e. first chak was proposed on plots (sic)/2 etc. of an area of 1.440 hectare, second chak was proposed on plots 169/2 and 183 of an area of 0.036 hectare and third chak was proposed on plots 159 etc. of an area of 0.181 hectare. It may be mentioned that at the time of partial plot 169/1 (area 0.063 hectare) was found as rasta, 169/2 (area 0.012 hectare) was found as cultivatory land, 170 (area 0.012 hectare) was found as abadi land, plot 171 (area 0.336 hectare) was found as abadi land, plot 171 (area 0.028 hectare) was found as Banjar and plot 171 (area 0.032 hectare) was found as abadi land

and recorded as such in CH Form-2-A. However at the time of preparation of Statement of Principle these plots 169/2 (area 0.012 hectare), 170 (0.012 hectare) and 171 (area.032 hectare) were valued at the rate of 80, 70 and 60 paisa. No one filed any objection against the determination of valuation of these plots.

3. Kapil Deo (respondent-4) was allotted chak on plots 336, 337 and 360 by the order of Consolidation Officer dated 31.10.2012 passed in Case No. 204. Respondent-4 filed an appeal (registered as Appeal No. 1028) from the aforesaid order of Consolidation Officer. In the appeal, respondent-4 stated that plot 360 was low level land and an area of 0.131 hectare of this plot has been allotted in his chak, who is a small tenure holder having total area of 0.221 hectare as such this plot be taken from his chak and its valuation be allotted to him on his original holdings of plot 184, which is near to the abadi. The appeal was consolidated with other chak appeals of the village and heard by Settlement Officer Consolidation, who by order dated 28.2.2013, held that during spot inspection, it was found that plot 169/2 was adjacent to rasta on plot 169/1, 170 (area 0.012 hectare) was bachat and 171 (area 0.032 hectare) was abadi on the spot as such plots 169/2, 170 and 171 were liable to leave as chak out. Plots 169/2, 170 and 171 were original holdings of the petitioner. Plot 184 was original holdings of respondent-4 and has been left for extension of Harizen abadi. By deleting Harizen abadi from plot 184, respondent-4 was entitled for a chak on his original holdings which is near the abadi. On these findings the appeals were allowed by order dated 28.2.2013 and valuation of plots 169/2, 170 and 171 were deleted. Due to which valuation of Rs. 3.76 was reduced from the chak of the petitioner and his second chak on plots 169/2 and 183 was abolished. Respondent-4 was allotted chak on plots 183 and 184 of 0.056 hectare.

4. The petitioner filed a revision (registered as Revision No. 800/2013-14) from the aforesaid order. The revision was heard by Deputy Director of Consolidation, who by order dated 18.12.2013 held that in CH Form-2-A plot 169/1 (area 0.063 hectare) was recorded as rasta, 169/2 (area 0.012 hectare) was recorded as rasta, 170 (area 0.012 hectare) was recorded as abadi and plot 171 (area 0.032 hectare) was recorded as abadi land, as such, valuation of these plots were illegally determined. Settlement Officer Consolidation has not committed any illegality in deleting its valuation. On these findings the revision was dismissed. Hence this writ petition has been filed.

5. The Counsel for the petitioner submitted that findings of respondent-1 that 169/2 (area 0.012 hectare) was recorded as rasta, was incorrect. Valuation of different plots are determined under section 8(1)(i) of the Act. On the notice being issued under section 9(1) of the Act, any person, if aggrieved is required to filed an objection under section 9(2) of the Act within 21 days of the notice. As no objection under section 9 was filed against the determination of valuation of plots 169/2, 170 and 171, as such, at the subsequent stage i.e. at the stage of chak carvation, objection regarding valuation is barred under section 11-A of the

Act. He relied upon the judgments of this Court also in Ram Kumar v. Ziladhikari and others 2002 (93) RD 403, Maharaj Singh v. DDC and others 2005 (98) RD 600, Buddhi Ram v. DDC and others 2006 (100) RD 260, Surya Bali v. DDC and others 2006 (100) RD 741, and Smt. Kiran Devi Vs. Deputy Director of Consolidation and Others, . In Ram Kumar's case, this Court relying upon section 19-A(2) of the Act, held that as section 19-A(2) of the Act specifically authorizes the consolidation authorities to allot chak to a tenure holder on the Goan Sabha land which was not within consolidation and bar contained under section 11-A of the Act has no application. In Maharaj Singh's case also this Court held that in case, in chak allotment a plot of other tenure holder is allotted then its valuation can be questioned by that tenure holder. In Buddhi Ram's case it has been held that objection was filed at the stage of section 9, as such bar contained under section - 11-A has no application. In Surya Bali's case it has been held that in spite of section 11-A, jurisdiction of Deputy Director of Consolidation to delete the valuation of any plot and to keep it as chak out is not affected. In Kiran Devi's case it was held that if the original tenure holder has not raised any objection regarding valuation of his holding then his right to raise objection regarding valuation at the stage of chak allotment proceeding is barred under section 11-A of the Act.

6. I have considered the arguments of the Counsel for the parties and examined the record. Section 11-A of the Act provides that no question in respect of valuation of plots, where the question is sought to be raised by a tenure holder of the plot relating to the consolidation area, which has been raised under section 9 or which might have ought to have been raised under that section but has not been so raised, shall be raised or heard at any subsequent stage of the consolidation proceedings.

7. The controversy came for consideration before Division Bench of this Court in Badri Prasad v. Smt. Barko and others 1966 RD 101 (DB). This Court held that under section 9(1) notice is sent to the tenure holder in CH Form-5 containing inter alia amongst other things, valuation of his holdings. The tenure holder to whom notice was served, is expected to file objection within 21 days under section 9(2) of the Act. Although the whole statement of current annual register is published under section 9(I)(b) but every tenure holder is not expected to scrutinize the valuation of every plots of the entire village and file objection within the period prescribed under section 9(2). If every tenure holder is required to scrutinize the valuation of every plots of the entire village and file objection then task of deciding the objection would be beyond the control of the consolidation authorities. For these reasons, right of third party to challenge the valuation at the subsequent stage of consolidation is not barred under section 11-A of the Act. This judgment has been followed in Ram Sewak Vs. Deputy Director of Consolidation and Others, , Chandrika Rai v. DDC and others 1995 RD 53, Bhagwan Singh v, DDC and others 1996 RD 36(H), Ram Samujh v. DDC 1996 RD 311 and Sunder Lal v. DDC and others 2006 (100) RD 379..

8. In this Court case, plots 169/2, 170 and 171 were original holdings of the petitioner. As such other tenure holder in whose chak these plots were allotted has right to challenge the determination of its valuation. Settlement Officer Consolidation, after spot inspection, found that plot 169/2 was adjacent to rasta on plot 169/1, 170 (area 0.012 hectare) was bachat and 171 (area 0.032 hectare) was abadi on the spot as such plots 169/2, 170 and 171 were liable to leave as chak out. The reasons recorded by Settlement Officer Consolidation for deleting valuation of plots 169/2, 170 and 171 do not suffer from any illegality. Similarly allotment of chak to respondents on plot 184, which was his original holding near the abadi, also does not suffer from any illegality. In view of the aforesaid discussions, orders of consolidation authorities do not suffer from any illegality. The writ petition has no merit and is dismissed.