
(2008) 02 AHC CK 0071
In the Allahabad High Court

Laloo Ram

APPELLANT

Vs

D.D.C. and Others

RESPONDENT

Date of Decision : 04-02-2008

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48

Citation : (2008) 2 AWC 1618

Hon'ble Judges : Devi Prasad Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Devi Prasad Singh, J.—Heard the parties counsel. With the consent of parties counsel, I proceed to decide the petition finally at the admission stage.

2. Short question raised in this writ petition is that while allowing the revision, the Deputy Director of Consolidation has indicated in his judgment that he has made spot inspection and thereafter, the finding of fact has been recorded in the judgment and order dated 29.12.2004. The submission of the learned Counsel for the petitioner is that the Deputy Director of Consolidation has neither made any spot inspection nor visited the spot. There is nothing on record to show that the Deputy Director of Consolidation has made spot inspection to find out the factual position. The Deputy Director of Consolidation has recorded wrong finding that he has made spot inspection.

3. Sri N.C. Upadhyay learned Counsel submits that though the Deputy Director of Consolidation has made spot inspection but he admits that there is nothing on record to indicate that the Deputy Director of Consolidation has made spot inspection. On the other hand, Sri Nirmal Tiwari learned Counsel submits that ordinarily, it is not necessary for the Deputy Director of Consolidation to make spot inspection. However, in case, such spot inspection is made, then the memo shall be prepared and placed on record. In any case, he submits that in case, the Deputy Director of Consolidation visited the spot and made spot inspection, then

it shall be incumbent on him to prepare a memo of inspection and inspection must be done in presence of parties. The findings of fact recorded in the judgment based on no material, shall not be a ground to decide the factual controversy between the parties. In case no inspection was done then the Deputy Director of Consolidation cannot revert the findings of fact stating that he has visited the spot and after going through the factual position of the spot, he has decided the controversy. It shall always be appropriate that while making spot inspection, the Deputy Director of Consolidation must prepare a memo in the presence of parties and such memo should be kept in the record of the proceedings. In the present case, admittedly, no such memo exists on the paper book lying in the office of the Deputy Director of Consolidation, Barabanki.

4. Needless to say that the Deputy Director of Consolidation while exercising power u/s 48 of the U.P. Consolidation of Holdings Act, 1953 functions like a quasi-judicial authority and every quasi-Judicial authority while discharging statutory duty, must function in such a manner which does not shake people's confidence in the administration of justice. The preparation of the memo of inspection is the part and parcel of judicial proceedings which strengthens people's confidence in the administration of justice. No notice should be taken while adjudicating a controversy on judicial side of a fact or proceeding which has not been converted into writing with communication to contesting parties. Justice should not be done, but it must seem to be done.

5. In view of the above, the writ petition deserves to be allowed. The writ petition is allowed. A writ in the nature of certiorari is issued quashing the order dated 29.12.2004, passed by the Deputy Director of Consolidation, Barabanki with consequential benefits and the matter is remanded back to the Deputy Director of Consolidation, Barabanki with direction to visit the spot and prepare an inspection note and thereafter, decide the controversy after affording opportunity of hearing to the parties expeditiously preferably within three months from the date of receipt of a certified copy of this order. No order as to costs.