

(2008) 02 AHC CK 0194

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 30554 of 1990

Mani Ram

APPELLANT

Vs

Deputy Director of Consolidation, Ghazipur and another

RESPONDENT

Date of Decision : 13-02-2008

Acts Referred:

Citation : (2008) 02 AHC CK 0194

Hon'ble Judges : S.K.Singh, J

Final Decision : Allowed

Judgement

S.K. Singh, J.—Heard Sri Gupta, learned Advocate in support of this petition and Sri Verma, learned Advocate who appeared for the respondent.

2. Challenge in this petition is the order passed by the Deputy Director of Consolidation by which revision filed by the respondent was allowed and changes in the chak has been made.

3. Proceedings are under section 20 of U.P.C.H. Act which relates to the allotment of plots in the chak of the parties. There cannot be any dispute about the fact that in these proceedings both parties can never be satisfied as on acceptance of claim of one side that is to cause discomfort to other, and therefore, this Court is to see that whether the test Court while adjusting the chak of the parties has considered the matter in accordance with law and whether there is any violation of section 19 of the U.P.C.H. Act.

4. Submission of the. learned Corsica for the petitioner is that plot No. 127 although is original holding of the respondent but that is in front of the petitioner's house and at the same time plot No. 126 in which both sides are cosharers is in front of the house of the respondent and therefore, Consolidation Officer after making spot inspection provided chak in the manner that both sides are to get their chak, in front of their houses which was confirmed by the appellate authority but the Deputy Director of Consolidation without making any spot inspection in mechanical manner changed the placement on account of

which petitioner has suffered serious prejudice.

5. In response to the aforesaid, Sri Verma, learned Counsel for the respondent submits that the Deputy Director of consolidation being the last Court to balance the equity has made necessary changes then no exception can be taken to it.

6. In view of the aforesaid, this Court is to decide the matter.

7. There is no dispute about the fact that Consolidation Officer has made spot inspection as mentioned in the order but. Deputy Director of Consolidation has not made any spot inspection. Allotment of road side land and land near/in front of the house can only be made after getting spot inspection. If the findings of two Courts is that the chak of the petitioner is in front of the house on plot No. 127 and chak of the respondent is in front, of his own house on plot No. 126 is accepted to be correct, then no fault can be found in the adjustment. But if the facts are otherwise then equitable arrangement, in accordance with law, can be made. Thus it was the concern of the Deputy Director of Consolidation to have made spot inspection to adjust the equity between the parties. As that has not been done, this Court is to remit the matter to the Deputy Director of Consolidation with the direction to revive the revision for being decided, as noted above, after giving adequate opportunity to both sides preferably within a period of four months from the date of receipt of certified copy of this side from either of the sides.

8. For the reasons given above, this writ petition succeeds and is allowed and the order passed by the Dy. Director of consolidation is hereby quashed. Dy. Director of consolidation is directed to revive the revision and decide the same afresh on merits in accordance with law, as directed above.