

(1989) 01 AHC CK 0028
In the Allahabad High Court
Case No : Civil Misc. Writ No. 225 of 1977

Motilal	Vs	APPELLANT
Deputy Director Consolidation and Others		RESPONDENT

Date of Decision : 31-01-1989

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48
Uttar Pradesh Consolidation of Holdings Rules, 1954 — Rule 3

Citation : (1989) 1 AWC 344 : (1989) RD 151

Hon'ble Judges : A.N. Varma, J

Bench : Single Bench

Advocate : J.N. Chandra and G.N. Chandra, for the Appellant; R.N. Sharma, K.D. Tripathi and Tej Pal and S.C., for the Respondent

Final Decision : Allowed

Judgement

A.N. Varma, J.—This petition is directed against the Order dated 30-10-1976 passed by the Deputy Director of Consolidation, Mainpuri, Camp at Agra, dismissing a revision filed by the Petitioner on the ground of non-compliance of Rule 3 of the U.P. Consolidation of Holdings Rules. Rule 3 provides that along with the memorandum of revision the applicant should also file certified copies of the Orders of the subordinate authority sought to be challenged in revision. The Petitioner had filed copy of the Order passed by the Settlement Officer (Consolidation) but he did not file a copy of the Order passed by the Assistant Consolidation Officer. When the revision was taken up for hearing this omission was detected whereupon the Petitioner filed an application stating that on account of some confusion the clerk of the Petitioner's Counsel had filed a wrong copy of the Order passed by the Assistant Consolidation Officer. He accordingly prayed that he be granted time to file the correct copy of the Order passed by the Assistant Consolidation Officer. The Deputy Director of Consolidation rejected this application and immediately thereafter proceeded to dismiss the revision itself on the ground of non-compliance of Rule 3 as well as on the ground that the record of the case had not been received from the Record Room.

2. Having heard learned Counsel for the parties, I find that neither of the two grounds on which the Petitioner's revision was dismissed, is tenable. The revision could not be dismissed on the ground that the record of the case had not been received from the Record Room. It is also settled law that a revision u/s 48 of the U.P. Consolidation of Holdings Act cannot be dismissed on the ground of non-compliance of Rule 3 of the aforesaid Rules. It is another matter that the Deputy Director of Consolidation may postpone the hearing of the revision and give time to the applicant to file a copy of the Order challenged in revision within a reasonable time. That a revision cannot be dismissed for non-compliance of Rule 3 is now settled by several decisions of this Court. By way of illustration, the decision of this Court in the case of Smt. Marachi v. Deputy Director of Consolidation 1978 RD 79 may be cited.

3. For the contesting Respondent, it was urged that if the applicant does not offer a satisfactory explanation for the delay in filing the certified copy required to be filed along with the memorandum of revision Under Rule 3, the Deputy Director of Consolidation can legitimately dismiss the revision. In support of this contention the learned Counsel has cited a decision in the case of Ram Nath v. Deputy Director of Consolidation, Gyanpur 1970 AWR 821. This decision lends no support to the contention of the learned Counsel. It holds that Rule 3 is directory and that copies which were not filed with the memorandum of revision may be filed subsequently but that a Director can, in a fit case, accept the same even if they had not been filed at the proper time. In the present case, a satisfactory explanation had been given by the applicant for the omission to file the certified copy of the Order of the Assistant Consolidation Officer. He had asserted in the application that the omission was the result of some confusion. The mistake was of the clerk of the Petitioner's Counsel. This was a plausible explanation and in any case the omission of the Petitioner to file certified copy at the proper time. It was a bonafide mistake, if at all, which deserved to be condoned. The Deputy Director of Consolidation was clearly in error in rejecting this application and on that basis also the revision.

4. In the result, the petition succeeds and is allowed. The impugned Order passed by the Deputy Director of Consolidation dated 30-10-76 is quashed. The Deputy Director of Consolidation will now dispose of the Petitioner's revision on merits subject to the condition that the Petitioner files a certified copy of the Order passed by the Assistant Consolidation Officer within a month from today unless he has already filed the same. The Deputy Director of Consolidation will also ensure that the record of the case is before him before he disposes of the revision on merits. Parties are, however, left to bear their own coats.