

(2008) 09 AHC CK 0157

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 43543 of 2008

Nagar Palika Parlshad

APPELLANT

Vs

Asha Ram (Dead) Through LRs.and others

RESPONDENT

Date of Decision : 23-09-2008

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48(3)

Citation : (2008) 09 AHC CK 0157

Hon'ble Judges : Krishna Murari, J

Final Decision : Disposed Of

Judgement

Krishna Murari, J.—Heard learned Counsel for the parties.

2. The order dated 20.6.2003 passed by the Deputy Director of Consolidation in proceedings under section 48(3) of U.P. Consolidation of Holdings Act was challenged by the predecessor in interest of respondent Nos. 1/1 to 1/3 by filing writ petition No. 27204 of 2003. This Court vide order dated 2.7.2003 disposed of the writ petition with liberty to the petitioner therein to file objection before the Deputy Director of Consolidation within a period of one month and the Deputy Director of Consolidation was directed to pass fresh orders in reference proceedings after hearing the concerned parties. The Court further directed that till the matter is decided by the Deputy Director of Consolidation the order dated 20.6.2003 impugned in the writ petition shall be kept in abeyance.

3. The grievance of the petitioner is that misreading and misinterpreting the order dated 2.7.2003 passed by this Court Deputy Director of Consolidation vide order dated 29.12.2006 passed an order that since this Court had kept the order dated 20.6.2003 in abeyance as such the same is set aside and the reference is not to proceed, any further and dropped the proceedings. Thereafter, the petitioner moved an application to recall the said order on the ground that it was passed without hearing them which has also been rejected.

4. It has been urged by learned Counsel for the petitioner that Deputy Director of

Consolidation has wrongly and illegally dropped the proceedings on the ground that the order dated 20.6.2003 has been kept in abeyance by this Court without following the specific direction to decide the reference proceedings after hearing the parties.

5. From a perusal of the order dated 2.7.2003, there appears to be force in the submission. There was a clear cut direction by this Court to the Deputy Director of Consolidation to pass orders in reference proceedings after hearing the petitioner therein and other concerned person and till the decision, earlier order dated 20.6.2003 which was impugned in the said writ petition was kept in abeyance. It is thus clear that Deputy Director of Consolidation has wrongly dropped the proceedings after setting aside the earlier order dated 20.6.2003 without deciding the reference proceedings as directed by this Court.

6. In such view of the matter, the impugned order dated 29.12.2006 as well as 4.6.2008 rejecting the recall application of the petitioner is set aside.

7. The writ petition stands allowed with the direction to the Deputy Director of Consolidation to decide the reference proceedings in accordance with law and the directions contained in the order dated 2.7.2003 passed by this Court in writ petition No. 27204 of 2003.