
(2015) 03 AHC CK 0194
In the Allahabad High Court
Case No : Writ-B. No. 15457 of 2015

Nand Kishore and Others

APPELLANT

Vs

D.D.C. and Others

RESPONDENT

Date of Decision : 23-03-2015

Acts Referred:

Citation : (2015) 129 RD 656

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

Bench : Single Bench

Advocate : R.S. Chaudhary, for the Appellant

Final Decision : Dismissed

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri R.S. Chaudhary for the petitioners. The writ petition has been filed against the orders of Settlement Officer Consolidation dated 3.10.2013 and Deputy Director of Consolidation dated 31.1.2015.

2. In the chak allotment matters the appeals were decided by Settlement Officer Consolidation by order dated 24.8.2004. Thereafter the application has been filed by the respondents for recall of the order dated 24.8.2004 on 4.1.2005 on which the Settlement Officer Consolidation by the order dated 3.9.2008 allowed the application and recalled the order dated 24.8.2004. Thereafter the petitioners filed an application for recalling the order dated 3.9.2008 which was allowed by the Settlement Officer Consolidation by order dated 31.10.2011. As a consequence of the order dated 31.10.2011 the order dated 3.9.2008 was recalled and the recall application filed by respondent on 4.1.2005 was directed to be listed for further proceeding on 28.11.2011. Thereafter after hearing the parties the Settlement Officer Consolidation by order dated 3.10.2013 found that the notices were not served upon the respondent before passing the order dated 24.8.2004 accordingly the order dated 24.8.2004 was found ex-parte and it was recalled and the appeal was restored to its original number. The petitioners challenged the order dated 3.10.2013 in the revision which has been dismissed

by the Deputy Director of Consolidation by order dated 31.1.2015. Hence this writ petition has been filed.

3. Only argument raised by the Counsel for the petitioners is that after passing the order dated 31.10.2011, no application has been filed by the respondents, in such circumstances, the Settlement Officer Consolidation has no jurisdiction to pass a subsequent order dated 3.10.2013 and recall the order dated 24.8.2004. This objection was also raised in the revision but the revision was illegally dismissed by the Deputy Director of Consolidation.

4. I have considered the arguments of the Counsel for the petitioners. The argument is thoroughly misconceived. As a consequence of the order dated 31.10.2011, the recall application filed by the respondent on 4.1.2005 has become pending as the order passed on it on 3.9.2008 has been recalled. Therefore the application was decided afresh after hearing the parties by a subsequent order dated 31.10.2011, and there is no jurisdictional error in the order. So far as the findings recorded by the Settlement Officer Consolidation that notices were not served upon the respondents before passing the order dated 24.8.2004 is concerned, this finding of fact has also been upheld by the Deputy Director of Consolidation and has not been challenged by the petitioners before this Court. The writ petition has no merit, it is dismissed.