
(2014) 02 AHC CK 0259
In the Allahabad High Court
Case No : Writ B No. 11405 of 2014

Nand Lal	Vs	APPELLANT
D.D.C. and Others		RESPONDENT

Date of Decision : 24-02-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 9B, 9B(1), 9B(2)

Citation : (2014) 123 RD 39

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

Bench : Single Bench

Advocate : K.C. Kishan Srivastava, Advocate for the Appellant; Dan Bahadur Yadav and Manoj Kumar Yadav, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri K.C. Kishan Srivastava for the petitioner and Sri Dan Bahadur Yadav and Sri Manoj Kumar Yadav for the respondents. The writ petition has been filed against the order of Deputy Director of Consolidation dated 11.2.2014 by which he has shifted his place of land reserved for general abadi as well as land reserved for the purposes of village potters towards boundary of the village and carved out a chak road up to it.

2. It is stated that earlier an area of 0.020 hectare was reserved for general abadi and an area of 0.008 hectare was reserved for village potters in plot 4. The petitioner filed an objection u/s 9B of UP Consolidation of Holdings Act, 1953 (hereinafter referred to as the "Act") for reservation of 0.020 hectare more area in plot 4 for extension of general abadi. On which a report has been called for. The Assistant Consolidation Officer submitted his report. The Consolidation Officer, after considering the report of Assistant Consolidation Officer, by order dated 1.8.2012, reserved an area of 0.020 hectare in plot 4 as land for general abadi. Respondent-2 filed two appeals against the aforesaid order of reservation of the land for extension of general abadi as well as land for village potters. The Settlement Office Consolidation consolidated and decided both the appeals and

by order dated 11.12.2013 dismissed both the appeals. Respondent-2 therefore filed two revisions from the aforesaid orders which have been allowed by Deputy Director of Consolidation by order dated 11.12.2014. Hence this writ petition has been filed.

3. The Counsel for the petitioner submits that land for extension of general abadi was reserved on the application of the petitioner but the petitioner was not impleaded as party in the appeals filed by respondent-2. However, he for the first time impleaded the petitioner in the revisions as party. Respondent-2 has no locus standi in the matter and the revision ought to have been dismissed. The land reserved for general abadi was reserved on the application of the petitioner which was lying in front of his old abadi, however it has been illegally shifted from this place due to which the petitioner has been deprived from his abadi.

4. I have considered the arguments of the Counsel for the petitioner and examined the records. So far as the arguments that the petitioner was not impleaded in the appeal is concerned. As the appeals were dismissed, as such, the order of dismissal of the appeals does not cause any prejudice to the petitioner. Admittedly the petitioner was impleaded as the opposite party in the revisions and was heard before passing the order therefore he was given opportunity of hearing. So far as the locus standi of respondent-2 to file appeal/revision is concerned, Statement of Principle can be challenged by any person u/s 9B of the Act. The petitioner himself has challenged the Statement of Principle and the order passed by Consolidation Officer in the objection filed by the petitioner has been challenged in the appeal/revision by respondent-2. Thus it cannot be said that the villagers have no locus standi to challenge the Statement of Principle.

5. The Counsel for the petitioner, relying upon the judgment of this Court in Taz Hussain v. Assistant Consolidation Officer 1959 ALJ 209 in which it has been held that the consultation of Consolidation Committee was necessary for deciding the objection relating to Statement of Principle, submits that at the time when the petitioner moved the application. Assistant Consolidation Officer submitted the report in consultation of the members of Consolidation Committee but the Deputy Director of Consolidation did not take consent of the members of Consolidation Committee and illegally shifted the land reserved for general abadi and for village potters. He further submits that the revision has been filed only for shifting the 20 aers which was reserved for extension of the general abadi but Deputy Director of Consolidation has shifted all the general abadi as well as land reserved for potters from this place. So far as the arguments that the consultation of Consolidation Committee is necessary, is concerned, the procedure for disposal of the objection in respect of Statement of Principle has been given u/s 9B of the Act. Section 9B(1) of the Act provides that Assistant Consolidation Officer before submitting his report shall take views of the Consolidation Committee. However u/s 9B(2) Consolidation Officer merely required to give notice to the Consolidation Committee at the time of disposal of

the objection. Same power is exercised by Deputy Director of Consolidation while deciding the revision. Admittedly, the Assistant Consolidation Officer submitted report after consulting the members of Consolidation Committee. Therefore, the report was submitted after consultation and while disposal of the objection, the higher authorities were not required to again consult the members of Consolidation Committee. Only notice is required to be given to the members of Consolidation Committee. In this case the notice has been given to the Consolidation Committee which was arrayed as respondent in the revisions. Thus there is no procedural irregularities in the matter.

6. Deputy Director of Consolidation has recorded the findings that places of land for extension of abadi and for potters was lying inside the chak as there was no access road up to these places. As such these places are slightly shifted and a chak road has been given through plot Nos. 1 and 2 up to the border of the village. The order has been passed after considering all the facts and situation as well as location to the place and does not cause any prejudice to the petitioner. The land reserved for general abadi has not been allotted to any person. The petitioner can have no personal right in it as the petitioner has not been allotted this land. In view of the aforesaid discussion, there is no illegality in the order of Deputy Director of Consolidation. The writ petition is dismissed.