
(2012) 12 AHC CK 0110
In the Allahabad High Court
Case No : Writ-B No. 67013 of 2012

Nanku and Others

APPELLANT

Vs

District D.D.C.and Others

RESPONDENT

Date of Decision : 20-12-2012

Acts Referred:

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

Citation : (2012) 12 AHC CK 0110

Hon'ble Judges : Ran Vijai Singh, J

Final Decision : Dismissed

Judgement

Ran Vijai Singh, J.

Through this writ petition, the petitioners have prayed for issuing writ of certiorari quashing the order dated 09.07.2012, passed by Collector/Deputy Director of Consolidation, Banda in Revision No. 51 (Nanku and others Vs. Ramji). In the revision, order dated 08.04.2010 was under challenge, by which the petitioners' application filed before the Consolidation Officer for allowing the acceptance of the written statement was rejected.

The facts giving rise to this case are that, it appears that an objection was filed by the petitioners' father under Section 9A (2) before the Consolidation Officer. The said objection was allowed on 18.07.1995.

Challenging the aforesaid order, the highly belated appeal was filed by the father of respondent No. 3 after twenty two years. The aforesaid appeal was allowed and the matter was remitted before the Consolidation Officer for deciding the case afresh after hearing both the parties. It appears, after remand before the Consolidation Officer, respondent No. 3 has filed additional written statement, which has been accepted by the Consolidation Officer. The petitioners, herein, have filed an objection that without leave of the Court, no written statement could be filed before the Consolidation Officer. The said objection was rejected on 08.04.2010 and the revision filed against the said order has also been dismissed

as not maintainable.

Learned counsel for the petitioners submits that the Consolidation Officer as well as the Deputy Director of Consolidation, both, have erred in not allowing the petitioners' objection with respect to accepting the additional written statement filed after the order of remand.

I have heard learned counsel for the petitioners and perused the record.

The learned counsel for the petitioners could not show any provision that the additional written statement cannot be filed in a case.

I am of the view that the parties are at liberty to complete their pleadings as and when occasion arises without there being any intention to delay the proceedings. Otherwise also, no prejudice has been caused to the petitioners, as the petitioners still have right to rebut the stands taken in the additional written statement in accordance with law.

The petitioners' revision has been dismissed as not maintainable by the Deputy Director of Consolidation. The revision was filed under Section 48 of the Uttar Pradesh Consolidation of Holdings Act, 1953 (hereinafter referred to as the Act). Subsection (1) of Section 48 confers right upon a tenure holder to file a revision against any order other than the interlocutory orders. The "interlocutory order" has been explained in Explanation 2, which states such order deciding any matter arising in such case or proceeding or collateral thereto as does not have the effect to finally disposing of such case or proceeding.

Here, in this case, an objection to accept the additional written statement has been rejected by the Consolidation Officer in a pending proceeding filed under Section 9A (2) of the Act. I am of the opinion that this order will fall in the ambit of an interlocutory orders. Therefore, the Deputy Director of Consolidation has rightly rejected the revision holding it as not maintainable.

The matter may be examined from another angle also. After acceptance of the additional written statement, the petitioners will have right to rebut the same and lead the evidence contrary to that as and when the occasion arises and if the decision is adverse to the petitioners' interest, the petitioners will have a right of appeal before the Settlement Officer, Consolidation.

At this stage, it appears to me that no prejudice has been caused to the petitioners, therefore, no infirmity can be attached to the orders impugned.

The writ petition is dismissed. However, in view of the prayer No. 2 made by the petitioners, it is observed that the objection pending before the Consolidation Officer be decided expeditiously, preferably, within one year from the date of production of a certified copy of the order of this Court, without granting any unnecessary adjournments to the parties.