
(2011) 03 AHC CK 0337

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 16284 of 2011

Narayan Singh and Others

APPELLANT

Vs

Dy. Director of Consolidation and Others

RESPONDENT

Date of Decision : 17-03-2011

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 6A, 9A(2)

Citation : (2011) 4 ADJ 758 : (2012) 5 AWC 4569

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Final Decision : Partly Allowed

Judgement

A.P. Sahi, J.—Heard learned Counsel for the Petitioners.

2. The dispute essentially is one of the title in relation to Khata numbers in question including Khata No. 279. The title is being claimed on the basis of the succession by the Petitioners in a dispute raised by the vendees of Smt. Premwati from whom the Petitioners claim succession.

3. It appears that in the proceedings u/s 6-A, an order came to be passed which the Petitioners allege is on the basis of a forged compromise. The Petitioners straightway preferred a revision against the said order which has been dismissed by Deputy Director of Consolidation holding that the proceedings u/s 6-A being summary in nature, it is open to the Petitioners to file an appropriate objection u/s 9-A(2) of the U.P. Consolidation of Holdings Act. While passing the aforesaid order, the Deputy Director of Consolidation has further proceeded on merits to indicate that in effect the Petitioners want the cancellation of the sale-deeds and, therefore, they have to approach the Civil Court and further the Petitioners have not been able to prove that the signature of the Gram Pradhan on the compromise was forged. Learned Counsel submits that the opinion expressed on the merit of the case, therefore, seriously prejudices the cause of the Petitioners if they are being relegated for filing objections u/s 9-A(2) of the Act.

4. Sri Ayub Khan on behalf of Respondent No. 9 - Swaroopi Devi has put in appearance and he submits that insofar as the maintainability of the revision and the Petitioners approaching the Consolidation Officer u/s 9-A(2) is concerned, the order cannot be faulted with. The observation made by the Deputy Director of Consolidation being summary in nature, it is still open to the Petitioners to raise the dispute and substantiate their plea on the regular side. Learned Standing Counsel has also adopted the same argument.
5. In view of the nature of submissions raised, it is not necessary to issue notices to the other contesting Respondents at this stage.
6. A perusal of the order of Deputy Director of Consolidation leaves no room for doubt that the Petitioners have been advised to file an objection u/s 9-A(2) of the Act. In such a situation, any observations made by the Deputy Director of Consolidation would be prejudicial to the merits of the matter.
7. Accordingly, the impugned order insofar as it makes observations in relation to the merits of the claim of the sale-deed as also the signature of the Gram Pradhan are set aside. It shall be open to the Petitioner to file objections as per the impugned order and the same shall be decided in accordance with law.
8. With the aforesaid observations, the writ petition is partly allowed.