
(2016) 11 AHC CK 0122
In the Allahabad High Court
Case No : Writ-B No. 50613 of 2016

Niranjan Ram

APPELLANT

Vs

Deputy Director of Consolidation

RESPONDENT

Date of Decision : 23-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 121 ALR 747 : (2017) 134 RD 255

Hon'ble Judges : Manoj Kumar Gupta, J.

Bench : Single Bench

Advocate : Siddhartha Varma and Ashutosh Kumar Singh, Advocates, for the Petitioners; C.S.C, Manoj Kumar Yadav, Advocate, for the Respondents

Final Decision : Dismissed

Judgement

Manoj Kumar Gupta, J. - Supplementary affidavit filed today is taken on record.

The instant writ petition is directed against the order dated 19.02.2016, whereby the Deputy Director of Consolidation has dismissed the revision filed by the petitioners as barred by time and has thereby refused to interfere with the order of the Settlement Officer Consolidation dated 05.10.1991 passed in the appeal filed by Dashrath, the father of the petitioner nos. 1 to 5 and husband of petitioner no. 6.

2. It appears from the facts narrated in the writ petition that Dashrath, filed an objection before the Consolidation Officer regarding the chaks proposed in his favour by the Assistant Consolidation Officer. The Consolidation Officer rejected the objections filed by Dashrath. Aggrieved thereby, Dashrath filed Appeal No. 872 before the Settlement Officer Consolidation. One more appeal was filed against the same order by some other tenure holder being appeal no. 830. The Settlement Officer Consolidation decided the aforesaid appeals by order dated 05.10.1991 making certain modifications in the chak of Dashrath by allotting plots no. 907, 909 and 910 to him in place of plot nos. 911M and 948M.

According to the petitioners, the order of the Settlement Officer was not given effect to on account of an interim order passed in Writ no. 21165 of 1992 Bhullar v. J.S. Tomar. It is further stated in the writ petition that Dashrath was not agreeable with the order passed by the Settlement Officer Consolidation but he could not file writ petition during his life time because the entire record of the case was consigned to the record room on account of the interim order passed in the above referred writ petition. After the death of Dashrath, when the Consolidation Authorities were changing possession of the chaks in the year 2008, the petitioners came to know of the order dated 05.10.1991 and thereafter, they filed revision on 07.05.2010 challenging the order of the Settlement Officer Consolidation dated 05.10.1991. The same has been dismissed by the Deputy Director of Consolidation by impugned order dated 19.02.2016.

3. It is urged by learned counsel for the petitioners that the father of the petitioners Dashrath was not in his senses during last stage of his life and consequently, he could not file the appeal. He further submitted that since the record of the appeal was consigned to the record room in pursuance of interim order passed in Writ no. 21165 of 1992, consequently, they could not come to know of the order passed by the Settlement Officer Consolidation. It is urged that Deputy Director of Consolidation has wrongly rejected the revision as barred by time.

4. It is not disputed that the appeal in question was filed by Dashrath, the father of petitioner 1 to 5 and husband of petitioner no. 6. A perusal of paragraph 8 of the writ petition reveals that the petitioners are aware of nature of order passed by the Settlement Officer Consolidation on 05.10.1991 while deciding the appeal inasmuch as, it is stated that plot nos. 911M and 948M were taken out chak of Dashrath and in its place he was allotted plot nos. 907, 909 and 910. Copy of the interim order passed in writ petition no. 21165 of 1992 on the basis of which it is alleged that the record of appeal was consigned to the record room has not been filed along with writ petition nor the controversy which was a subject matter of consideration in said writ petition has been narrated. In the impugned order, a specific finding has been recorded that the contesting respondent who is chakdar no. 357, filed revision nos. 468/225, in which orders dated 30.05.1993 and 31.05.1993 were passed amending his chaks and the same has attained finality. The change of possession has taken place in the village long back and in case the revision filed by the petitioners is entertained, it would have adverse effect on the Consolidation Scheme. The petitioners as well as the opposite parties have been allotted chaks on their original holdings. In view of these facts, in the opinion of the Court, it seems that Dashrath, father of the petitioners felt satisfied with the order passed by the Settlement Officer and therefore, he did not challenge the same in his life time. For these reasons, the explanation given by the petitioners for not filing the revision in time has not been accepted. Even before this Court, no material has been placed to indicate that Dashrath had become insane during the last stage of his life and consequently, could not

challenge the order passed in appeal.

5. Having regard to the totality of the facts stated above and the findings recorded in the impugned order of the Deputy Director of Consolidation, this court does not find any reason to interfere with the same.

6. The petition lacks merit and is dismissed.