
(1993) 07 AHC CK 0014

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 21586 of 1993

Noor Jahan

APPELLANT

Vs

Settlement Officer Consolidation and Others

RESPONDENT

Date of Decision : 19-07-1993

Acts Referred:

Constitution (Forty-Second Amendment) Act, 1976 — Article 51A
Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 5(2), 9

Citation : (1993) 3 AWC 1586 : (1993) RD 461

Hon'ble Judges : B.L. Yadav, J

Bench : Single Bench

Advocate : Devendra Kumar, for the Appellant;

Judgement

B.L. Yadav, J.—This is a petition under Article 226 of the Constitution and the prayer is that a writ of mandamus be issued directing the Consolidation Officer, Kairana, Respondent No. 2, to decide the Case No. 230 of 1985, Smt. Noor Jahan v. Hanif and Ors. pending in his Court since 1985, as till today more than 150 dates have been fixed and the case has not been decided.

2. The facts of the case are very startling and they depict a pathetic story of a helpless lady, the Petitioner, who is trying to seek justice before the Consolidation Authorities.

3. Heard Counsel for the Petitioner. The object of U.P. Consolidation of Holdings Act, 1953 (for short the Act) was to provide for the consolidation of agricultural holdings in Uttar Pradesh for the development of agriculture as expeditiously as possible. Section 5(2) was added to the Act with the express object that proceedings or suit pending before any Authority or Court pertaining to any agricultural land must abate and shall be taken by the parties before the consolidation authorities and fresh objections are to be filed u/s 9 of the Act and they are to be decided as expeditiously as possible. But, in the present case it is very surprising that the Consolidation Officer, Khairana, Respondent No. 2 did not decide the matter even after more than 150 dates has been fixed in the case.

4. I have perused the copy of the order-sheet which is Annexure-14 to the Writ Petition and it tells, a lot about the working of the Court of the Consolidation Officer. If a long period of 9 years is not sufficient to dispose of the case before the Consolidation Officer, how it could be expected that any citizen of the country would get justice. It appears that some transfer application has been filed. Even if that is so, that may be finally decided within a month. Every citizen has a right to get his claim adjudicated upon by a Court or Authority at the earliest, but in the present case the same has been frustrated.

5. Chapter IV-A Fundamental Duties (Article 51-A) were inserted in the Constitution by Constitution (42nd Amendment) Act, 1976. Article 51-A(j) is set out:

It shall be the duty of every citizen of India (j) to strive towards excellence in all sphere of individual and collective activity, so the nation constantly rises to higher levels of endeavor and achievement.

6. Just like Part IV, Directive Principles of State Policy, the Fundamental Duties even though not enforceable in a Court of law, yet it is considered as an external aid to interpretation of the statutes. (See Mohan Kumar Singhania v. Union of India 1992 Supp. (1) SCC 594. Article 51-A(j) connotes that every citizen of this country has to perform his duties in an excellent way in individual and collective activity so that nation makes greater achievements. The word "excellent" has not been statutorily defined or judicially interpreted. In common parlance the expression "Excellence" means to be superior or pre-eminent to surpass another good qualities or work, the possession of good qualities in an unusual degree. In other words, the Consolidation authorities (including Consolidation Officer) are citizens of the country. They are enjoined by Article 51-A(j) of the Constitution to perform their duties in a more superior way so as to surpass other Consolidation Officers. In spite of Article 51-A(j) having been inserted by 42nd Constitution Amendment Act, 1976, the Consolidation Officer has not decided the case even after about 9 years and hence the conduct of the Consolidation Officer was depreciable. The Consolidation Officer has been entrusted with the duties to dispose of the complicated cases at the earliest. Difficulties may be any, but the case must be decided at the earliest possible date in a short span of time.

7. Under these circumstances, the Consolidation Officer, Kairana, is directed to decide the case positively by 30th November, 1993, if necessary, by fixing a date in every week.

8. With these directions, the Writ Petition is disposed of:

9. A certified copy of this order may be issued to the learned Counsel on payment of usual charges.