
(2010) 12 AHC CK 0215
In the Allahabad High Court
Case No : Writ-B No. 75178 of 2005

Onkar

APPELLANT

Vs

Deputy Director of Consolidation and Others

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 11, 48, 9A(2)

Citation : (2011) 112 RD 72

Hon'ble Judges : Krishna Murari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Krishna Murari, J.—Heard Sri Tripathi B.G. Bhai, learned Counsel for the Petitioners and Sri Mahesh Narain Singh for the contesting Respondents.

2. Facts in short, giving rise to the dispute, are as under:

Respondent No. 3 filed an objection u/s 9A(2) of the U.P. Consolidation of Holdings Act (for short the "Act") for recording his name on the allegation that lease of the land in dispute was granted in favour of his predecessor Smt. Nathiya and on her death he being nephew has succeeded the same and his name is liable to be recorded. Settlement Officer Consolidation vide order dated 23.3.1993 dismissed the objection. Aggrieved, Respondent No. 3 filed revision before the Deputy Director of Consolidation which was allowed and the matter was remanded back to the Consolidation Officer to be decided afresh. After remand, the Consolidation Officer vide judgment and order dated 10.12.1996 again dismissed the objection of Respondent No. 3, who went up in appeal. Settlement Officer Consolidation vide order dated 26.9.2002 set aside the order of the Consolidation Officer and remanded the matter back to the Consolidation Officer to be decided afresh. Aggrieved, Petitioner went up in revision. Revisional Court vide impugned order dated 11.8.2005 dismissed the revision on the ground that order of remand being interlocutory order, revision was not

maintainable.

3. The question to be considered is whether an order passed in appeal u/s 11 of the Act by the Settlement Officer Consolidation setting aside the order of the Consolidation Officer and remanding the matter back is an interlocutory order within the meaning of Section 48 of the Act and revision is barred against such an order.

4. Issue is no longer res-integra. The question was referred for adjudication by larger Bench by Hon"ble Single Judge and a Division Bench of this Court in the case of Deena Nath and Ors. v. Deputy Director of Consolidation, Ballia and Ors. 2010 (110) RD 584. while considering the question has answered the same as under:

An order passed in appeal u/s 11 of the U.P. Consolidation of Holdings Act by the Settlement Officer Consolidation deciding the appeal finally by setting aside the order of the Settlement Officer Consolidation and remanding the matter back to the Consolidation Officer is not an interlocutory order within the meaning of Section 48 of the U.P. Consolidation of Holdings Act and revision is not barred against such order u/s 48

5. In view of the law laid down by Division Bench, the impugned judgment and order of the Deputy Director of Consolidation dated 11.8.2005 dismissing the revision as not maintainable being directed against an order of remand treating it to be interlocutory in nature cannot be sustained and is hereby quashed. The writ petition stands allowed and the matter stands remitted back to the Deputy Director of Consolidation to decide the revision afresh on merits expeditiously, preferably, within a period of six months from the date of production of a certified copy of this order before him.