
(2014) 11 AHC CK 0025
In the Allahabad High Court
Case No : Writ-B No. 57878 of 2014

Padam Singh

APPELLANT

Vs

Dy. Director of Consolidation and Others

RESPONDENT

Date of Decision : 05-11-2014

Acts Referred:

Citation : (2015) 126 RD 181

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : Prakash Chandra and Vishal Khandelwal, Advocates for the Appellant; Rajesh Yadav, Ramesh Pundir and Rekha Pundir, Advocates for the Respondent

Judgement

Anjani Kumar Mishra, J.—Learned Counsel for the petitioner has filed supplementary-affidavit today in the Court, which is taken on the record. Heard Sri Prakash Chandra, learned Counsel for the petitioner and Sri Ramesh Pundir, learned Counsel for respondent No. 5, Rajpal.

2. In view of the consent of the parties and in view of the order proposed to be passed notices are not being issued to the other respondents because it has been stated that the dispute is primarily between the petitioner and the respondent No. 5. In case such unserved respondents feel aggrieved by this order, it will be open for them to file application for recall of the same.

3. This petition arises out of proceedings for allotment of chaks and is directed against the order dated 20.9.2014 passed by the Deputy Director of Consolidation, Muzaffar Nagar.

4. It has been submitted by the learned Counsel for the petitioner that he has been allotted a wholly Udan Chak. The second submission is that plot No. 273 was the original holding of the petitioner and valuable roadside land but no part of this plot has been included in the chak of the petitioner and for this reason the impugned order is liable to be set aside and the matter deserves to be remanded

back for a fresh decision.

5. Sri Ramesh Pundir, learned Counsel for respondent No. 5, has referred to the objection filed by the petitioner under section 20(1) of the Act. A perusal of this objection reveals that before the Consolidation Officer the petitioner had prayed that he be allowed Chak on plot No. 273, which was valuable roadside land and the petitioner was a co-tenure holder therein. Sri Pundir has also invited my attention to the order passed by the Consolidation Officer whereby the objection of the petitioner was decided along with the objection filed by Rupesh Kumar, the brother of the petitioner.

6. The Consolidation Officer in this order has recorded that a specific prayer has been made by the said Rupesh Kumar contrary to what has been stated in his objection that the allotment made in favour of chak holder No. 457 on plot No. 273 be not disturbed.

7. On the strength of these facts it has been submitted that, in fact, almost area of plot No. 273, which is said to be valuable roadside land, has been allotted entire to chak holder No. 457 namely Shyam Singh, respondent No. 6 in the writ petition. It has further been stated that the contesting respondent No. 5, Rajpal, has been allotted a very small area of plot No. 273 in his chak. Such allotment has been made only with a view to make his chak rectangular. He has further stated that he would not be aggrieved even if such area of plot No. 273 is excluded from his chak. He, therefore, contends that the petitioner is only interested in displacing the respondent No. 5, Rajpal, under the garb of his demand for a chak on plot No. 273 while at the same time the petitioner and his brother do not want to disturb Shyam Singh respondent No. 6, who has been allotted almost the entire area of the disputed plot No. 273 abutting the road.

8. I have considered the submissions made by learned Counsel for the parties and have perused the record. It clearly emerges that the petitioner has been allotted a wholly Udan Chak and therefore, the order passed by the Deputy Director of Consolidation cannot be sustained and the matter deserves to be remanded for a fresh decision after hearing all concerned.

9. In so far as the submissions made by the respondent No. 5 are concerned, it could suffice to state that the Deputy Director of Consolidation may consider the submissions made by him and also consider granting relief to the petitioner without disturbing the chak of the respondent No. 5, Rajpal, which comprises entirely of his original holding.

10. In case the petitioner wants a chak on plot No. 273 abutting the road as he is one of its original holders and it is valuable roadside land, the Deputy Director of Consolidation should consider to make adjustments vis-?-vis the respondent No. 6, Shyam Singh, who has been allotted almost the entire area of plot No. 273 abutting the road even though he is not one of the co-owners thereof. Accordingly and for the reasons given above, this writ petition is allowed. The order impugned dated 20.9.2014 is set aside and the matter is remanded back

to the Deputy Director of Consolidation to pass fresh orders after hearing all concerned parties in the light of the observations made here in above.