

(2009) 03 AHC CK 0124

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 8695 of 2009

Prabhu

APPELLANT

Vs

District Deputy Director (Consolidation), Baghpat and
another

RESPONDENT

Date of Decision : 18-03-2009

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48

Citation : (2009) 03 AHC CK 0124

Hon'ble Judges : Krishna Murari, J

Final Decision : Allowed

Judgement

Krishna Murari, J.—Prayer made on behalf of the petitioner to delete respondent No. 3 is allowed.

2. Heard learned Counsel for the petitioner and Shri N.K. Mishra for respondent No. 2.

3. With the consent of the learned Counsel for the parties, the writ petition is being finally disposed of without calling for a counter affidavit.

4. An order dated 5.4.1989 is stated to have been passed by Assistant Consolidation Officer making certain corrections in the village map. The order was challenged by the petitioner by filing a time barred appeal. Settlement Officer Consolidation condoned the delay in filing the appeal and allowed the same vide judgment and order dated 14.5.2002. Respondent No. 2 went up in revision. Deputy Director of Consolidation allowed the revision and not only set aside the Appellate Court order but also set aside the order passed by the Assistant Consolidation Officer on the ground that he has no jurisdiction to pass such an order.

5. It is contended by the learned Counsel for the petitioner that once the Deputy Director of Consolidation finding that Assistant Consolidation Officer was not vested with the power to have made corrections in the village map,

appropriately, he ought to have remanded the matter back to the Consolidation Officer to decide the same on merits after notice and opportunity of hearing and evidence to all the parties concerned. Prima facie, from a perusal of record, there appears to be force in the submission. Learned Counsel for the respondent also does not dispute this proposition.

6. Considering the facts and circumstances, the impugned order dated 14.1.2009 passed by Deputy Director of Consolidation is quashed.

7. Writ petition stands allowed.

8. The dispute is remanded back to the Consolidation Officer to decide the same afresh after notice and opportunity of hearing and evidence to the petitioner, respondent No. 2 as well as other interested persons.