
(1991) 02 AHC CK 0008

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 23474 of 1990

Puran Singh

APPELLANT

Vs

Assistant Deputy Director of Consolidation and Others

RESPONDENT

Date of Decision : 19-02-1991

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 19, 19(1), 48

Citation : (1991) 1 AWC 428 : (1991) RD 135

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

Bench : Single Bench

Advocate : V.S. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

B.L. Yadav, J.—By the present petition under Article 226 of the Constitution of India the order dated 4-9-1990 passed by the Assistant Deputy Director of Consolidation, Hamirpur in the revision u/s 48 of the U.P. Consolidation of Holdings Act, (for short the Act), is sought to be quashed.

2. Durg Singh, Respondent No. 2 appears to have filed the revision u/s 48 of the Act. Prior to that a writ petition was filed in this Court and the same was decided by judgment dated 15-7-1988 (Annexure-5 to the petition) By that judgment the earlier order of the Asstt. Director of Consolidation dated 3-9-86 was quashed and the matter was remanded to be decided again by him in the light of observations made in the judgment. In pursuance of the observation made by this Court contained in Annexure-5 the present revision has been decided.

3. Learned Counsel for the Petitioner urged that the area of Respondent No. 2 has been reduced by more than 25 per cent and the Petitioner has been granted two chaks and just on the basis of valuation the revision has been allowed in favour of Respondent No. 2, and the impugned order was manifestly erroneous,

4. Learned Counsel appearing for Respondent no, 2 on the other hand urged that

the area of Respondent No. 2 has not been reduced by more than 25 per cent and the allotment of Chak was made taking into account the valuation and other consideration pertaining to allotment of Chak contained u/s 19 of the Act and even if the valuation of plot was taken into account there was no mistake. The revision has been decided in pursuance of the directions and observations contained in the judgment of this Court dated 15-7-88 (Annexure-5), hence there is no justification for interference.

5. Having heard learned Counsel for the parties I am of the view that a perusal of the impugned judgment would indicate that nowhere it has been mentioned that the area of Respondent No. 2 has been reduced by more than 25 per cent. Further the same plot was irrigated or non irrigated has also been taken into account. In case the valuation was considered that would indicate as to whether the land was fertile or not and if so to which extent and that would also indicate as to whether the land was situate besides the village abadi or not. This consideration has been provided u/s 19(1)(f) of the Act. That provision is to the effect that every tenure holder, as far as possible, allotted the plot on which exists is private source of irrigation or any other improvement, together with an area in the vicinity equal to the valuation of the plot originally held by him there. Consequently reference to valuation in the impugned judgment and the allotment of Chak in pursuance thereof cannot be irrelevant consideration. A perusal of the judgment would indicate that the Deputy Director of Consolidation has tried to maintain balance between the grievance of the Petitioner and of Respondent No. 2. As the earlier judgment of this Court has become final, the Assistant Deputy Director of Consolidation has decided the revision in pursuance of that judgment of this Court. Nowhere it has been pointed out by the Petitioner that the judgment of this Court was not followed or that the Assistant Deputy Director of Consolidation has decided the revision in violation of the directions contained in that judgment. Consequently it appears that the order of the Deputy Director of Consolidation was manifestly just and proper and there is no error, much less an error apparent on the face of record.

6. In the result, the petition fails and the same is dismissed summarily. There shall be no order as to costs. The interim stay dated 13-9-90 is vacated.