
(2008) 09 AHC CK 0155

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 47510-of 2008

Rajendra Singh and others

APPELLANT

Vs

D.D.C.and others

RESPONDENT

Date of Decision : 11-09-2008

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48

Citation : (2008) 09 AHC CK 0155

Hon'ble Judges : Rajes Kumar, J

Final Decision : Allowed

Judgement

Rajes Kumar, J.—Heard Sri Neeraj Agrawal, learned Counsel for the petitioners and Sri Ayub Khan, learned Counsel appearing on behalf of respondent No. 2.

2. Learned Counsel for the petitioners states that the petitioners are the original holders of Gata No. 108 and in consolidation proceeding the land which has been provided to the petitioners was away from the road therefore, the petitioners filed appeal before the Settlement Officer Consolidation which has been allowed and the claim of the petitioners has been accepted. Being aggrieved by the order, respondent No. 2 filed revision before the Deputy Director of Consolidation, Bulandshahar. The Deputy Director of Consolidation, Bulandshahar by the impugned order disposed of the revision merely on the basis of his spot inspection without considering the case of the petitioners and without seeking objection of the petitioners and without setting aside the finding recorded by the Settlement Officer Consolidation.

3. Learned Counsel for the respondent states that the order of the Deputy Director of Consolidation, Bulandshahar is based on the spot inspection, therefore, does not require any interference.

4. Having heard learned Counsel for the parties, I have perused the impugned order. In my opinion, it cannot be sustained. It is settled principle of law that while Reversing the order of the Court below, the revisional Court should

consider the findings recorded by the Court below and set aside the same. Perusal of the impugned order reveals that the Deputy Director of Consolidation, Bulandshahar has passed the order merely on the basis of spot inspection, without considering the case of the petitioners and without considering the findings recorded by the Settlement Officer Consolidation. In this view of the matter, the order is vitiated and is liable to be set aside.

5. In the result, writ petition is allowed. The order dated 28.8.2008 passed by the respondent No. 1, Deputy Director of Consolidation, Bulandshahar, is set aside and the matter is remanded back to the Deputy Director of Consolidation, Bulandshahar to decide the revision afresh after giving proper opportunity of hearing to the petitioners and respondent and all concerned parties. The Deputy Director of Consolidation, Bulandshahr is directed to consider the findings recorded by the Settlement Officer Consolidation and also consider the case of the petitioners as well as respondent and after recording the finding, decide the revision afresh. The petitioners may file certified copy of the order before the Deputy Director of Consolidation, Bulandshahar within two weeks and he is directed to decide the revision within another two months thereafter.