
(2013) 12 AHC CK 0075
In the Allahabad High Court
Case No : Writ-B No. 59950 of 2013

Ram Bali

APPELLANT

Vs

Dy. Director of Consolidation and Others

RESPONDENT

Date of Decision : 02-12-2013

Acts Referred:

Citation : (2014) 122 RD 15

Hon'ble Judges : Ram Surat Ram (Maurya), J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri Anil Kumar Srivastava, for the petitioner and Sri Krishnaji Khare, and Sri Mahendra Pratap Yadav, for respondent-3. The respondent has filed Counter Affidavit at this stage as such with the consent of the parties, the writ petition is decided finally.

The writ petition has been filed for quashing the orders of Settlement Officer Consolidation dated 6.11.2012 and Deputy Director Consolidation dated 6.9.2013, passed in chak allotment proceedings, under U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the Act).

Plots 129,193,195 and 196 (total area 0.286 hectare) of village Manjariya, pargana Nagar Purab, district Basti were the original holdings of the petitioner. Assistant Consolidation Officer proposed one chak on plots 196, 197, 198, 207 and 208 (total area 0.216 hectare). The petitioner filed an objection (registered as Case No. 18) u/s 20 of the Act. The objection of the petitioner was heard by Consolidation Officer (R) Basti, who by order dated 5.9.2012 allowed the objection of the petitioner and taking some area from plots 196 and 207 and total area from plot 208 (total area 0.113), the petitioner was allotted a second chak on plots 195, 193 and 191 (total area 0.158 hectare).

2. Sita Ram (respondent-3) filed an appeal (registered as Appeal No. 252) from the aforesaid order. Sita Ram (respondent-3) filed another appeal (registered as

Appeal No. 253) from the order of Consolidation Officer dated 9.10.2012, passed in the case of Ram Baran. The Appeals were heard by Settlement Officer Consolidation, who by order dated 6.11.2012, allowed the appeal against the petitioner and restored the chak of the petitioner, as initially proposed to him.

3. The petitioner filed a revision (registered as Revision No. 102) from the aforesaid order. The revision was heard by Deputy Director of Consolidation, who by order dated 26.9.2013 held that the chak as allotted by the order of Settlement Officer Consolidation is on the original holding of plot 196 of the petitioner, in rectangular shape as no interference is required. On these findings the revision was dismissed. Hence this writ petition has been filed.

4. The Counsel for the petitioner submitted that plots 193 and 195, which are original holdings of the petitioner situate in proximity of National High Way and land of commercial value. These plots are valued at a low rate of 50 paisa, while plots 196, 197, 198, 207 and 208 are valued at the rate of 70 paisa. Due allotment of single on 196, 197, 198, 207 and 208, the area of the proposed chak of the petitioner has been substantially reduced in as much as total area of the original holding of the petitioner was 0.286 hectare and total area of his chak was 0.216 hectare. By allotting chak on high valuation land and depriving from the land of commercial value, determining its valuation at low rate, double injustice has been caused to the petitioner, although the petitioner is a very small tenure holder. The Consolidation Officer rightly allowed the objection of the petitioner but order of Consolidation Officer has been illegally set aside by Settlement Officer Consolidation without giving any reason. The revision has been dismissed only on the ground that the petitioner has been allotted a single chak in rectangular shape, without considering the grievances of the petitioner that the valuation of his original holdings of commercial value has been determined at a low rate due to which not only the petitioner has been deprived the land of commercial value but also his area has been substantially reduced. The orders of respondents-1 and 2 are illegal and are liable to be set aside.

5. In reply to the aforesaid arguments, the Counsel for the respondents submitted that plots 193 and 195 are not roadside land and are not the land of commercial value. In between the road and the plots of the petitioners, plots 190 and 191 are existing. In two sides of the chak of the petitioner on plot 196, chak roads of 2 meter wide and in one side sector road of 4 meter wide are carved out. Thus a single chak, in rectangular shape has been allotted to the petitioner on plot 196, which is fully in accordance with the object of the consolidation. Valuation of plot 129 was got allotted by the petitioner, in his other chak No. 114. The area of the chak of the petitioner is reduced within permissible limits. As such no interference is required by this Court.

6. I have considered the arguments of the Counsel for the parties and examined the record. A perusal of CH Form-23 filed by respondent-3 along with Counter Affidavit shows that total area of the original holding of the petitioner is 0.286 hectare and total area of his chak is 0.216 hectare. Thus about 24.5% area of his

original holdings has been reduced. Reduction of 24.5% of the area of the proposed chak to a very small tenure holder is causing grave injustice to him. The arguments of the Counsel for the respondent that valuation of plot 129 was got allotted by the petitioner, in his other chak No. 114 is not correct. Valuation of plot 129 has been added in this chak No. 106 itself. Total valuation of original holding of chak No. 106 is Rs. 15.90 and total valuation of the proposed chak is 15.10.

7. Section 19(1)(e) provides that every tenure holder is, as far as possible, allotted a compact area at the place, where he holds largest part of his original holding. Area of plot 193 is 0.072 hectare and plot 195 is 0.081 hectare while area of plot 196 is 0.080 hectare. Thus in the sector, where plots 193 and 195 situate, the petitioner holds largest part of his original holding. The Consolidation Officer has rightly allotted chak to the petitioner on these plots. Admittedly by the side of plots 193 and 195, a chak road of 2 meter wide has been carved out. Thus these plots have come in the proximity of the National High Way and become the land of commercial value. These plots have been valued at the rate of 50 paisa while plot 196, which is adjacent to plot 195 has been valued at the rate of 70 paisa. Thus by not allotting chak on plots 193 and 195 to the petitioner, he has been deprived his land of commercial value by determining its low exchange ratio.

8. Settlement Officer Consolidation, while allowing the appeal has not recorded any reason. Deputy Director of Consolidation dismissed the revision without considering the material grounds raised by the petitioner only for the reason that his chak on plot 196 is in rectangular shape. Thus by the impugned orders, material prejudice has been caused to the petitioner. In view of the aforesaid discussion, the writ petition succeeds and is allowed. The orders of Settlement Officer Consolidation dated 6.11.2012 and Deputy Director Consolidation dated 6.9.2013 are set aside. The matter is remanded to Deputy Director of Consolidation for deciding the revision of the petitioner afresh in accordance with law.