
(2014) 03 AHC CK 0269
In the Allahabad High Court
Case No : Writ-B No. 15646 of 2014

Ram Briksh

APPELLANT

Vs

Dy. Director of Consolidation and Others

RESPONDENT

Date of Decision : 25-03-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 11-A, 20, 9

Citation : (2014) 123 RD 306

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

Bench : Single Bench

Advocate : A.K. Malviya and S.N. Yadav, Advocate for the Appellant; S.K. Tiwari, Advocate for the Respondent

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri A.K. Malviya for the petitioner and Sri S.K. Tiwari for the contesting respondents. The writ petition has been filed against the orders of Settlement Officer, Consolidation dated 20.3.2013 and Deputy Director of Consolidation dated 11.12.2013 passed in chak allotment proceedings under U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the Act).

2. The dispute relates between the parties in respect of allotment of chak on plot No. 109/3 of village Thakurmanpur, pargana and district- Mau. The land in dispute was the original holding of Smt. Prabhawati Devi, Smt. Kasturi and Smt. Susheela (respondents-4 to 6) (hereinafter referred to as the respondents). The respondents were initially proposed two chaks. One chak was proposed on plot No. 121 etc. and the second chak was proposed on plot No. 89 etc., out of which the first chak was an uran chak. The respondents filed an objection u/s 20 of the Act, claiming for allotment of chak on plot No. 109/3. The objection of the respondents was dismissed by the Consolidation Officer by order dated 24.12.2012 holding that the chaks of the respondents were rightly allotted. The respondents filed an appeal from the aforesaid order. In the appeal, they alleged that plot No. 109/1 and 109/3 were adjacent to the road and valuation of these

plots have been wrongly determined and it has been prayed that in case plot No. 109/1 and 109/3 is not allotted in their chak then its valuation be deleted and these plots were left as chak out. The appeal was heard by Settlement Officer Consolidation along with other appeals of the village. Settlement Officer Consolidation also made spot inspection and found that plot No. 109/1 and 109/3 were surrounded in its three sides by abadi and in east there was a road. He further found that an area of 0.048 hectare of plot No. 109/1 and an area of 0.050 of plot No. 109/2 was left as chak out on the spot and thus only the holding of the respondents at this place was included in chak allotment proceedings. He held that as the land is surrounded on three sides by abadi and on one side by road therefore the entire area of this plot was liable to be excluded from consolidation area. Accordingly, the valuation of the plot No. 109/3 was deleted and suitable adjustment has been made from the second chak of the respondents which accordingly to the petitioner, was on road side land. The petitioner filed a revision from the aforesaid order which has been dismissed by the order of Deputy Director of Consolidation by order dated 11.12.2013. Hence this writ petition has been filed.

3. The Counsel for the petitioner submits that plot No. 109/3 was lying in front of the house of the petitioner accordingly an area of 0.039 hectare of this plot was allotted to the petitioner looking to his abadi. The Consolidation Officer after spot inspection has specifically found that the chaks of the respondents were rightly allotted and no interference is required in it. Plot No. 109/3 was the original holding of the petitioner and in case objection has not been filed u/s 9 of the Act against determination of its valuation then subsequent claim for deleting the valuation of this plot is barred u/s 11-A of the Act. These points were specifically raised before the Deputy Director of Consolidation. Deputy Director of Consolidation has carved out a totally new case that the land was purchased by the respondents for the purposes of abadi although there was no such pleading either in the objection of the respondents or in the memorandum of appeal. Thus the revision of the petitioner has been dismissed on extraneous consideration. The orders of Settlement Officer, Consolidation and Deputy Director of Consolidation are against the provisions of section 11-A of the Act and liable to be set aside.

4. I have considered the arguments of the Counsel for the parties and examined the record. So far as the arguments regarding bar of section 11-A of the Act, is concerned, this Court in *Gram Samaj v. D.D.C. and others*, 1969 RD 5 and *Surya Bali v. Deputy Director of Consolidation and others*, 2006 (100) RD 741 held that section 11-A of the Act does not bar the jurisdiction of consolidation authority to exclude any land from the consolidation operation. Thus the jurisdiction of Settlement Officer Consolidation is not effect by section 11-A of the Act, in deleting the valuation of plot No. 109/3.

5. So far as the arguments that Deputy Director of Consolidation has illegally remarked that the land was purchased for construction of abadi, against the

pleading, is concerned, suffice to say that plot No. 109/3 was the original holding of the respondents and they have right to claim a chak on this plot. It is surrounded by the abadi in three sides and road in eastern side. The respondents have an option to claim chak on their original holding. Although, the observation of the Deputy Director of Consolidation that it was purchased for construction of abadi was not in the pleading of the respondents but even then their claim for allotment of chak of their original holding is not affected.

6. So far as the arguments of the Counsel for the petitioner that second chak of the respondents was on the roadside as such it was not proper for taking some valuation of second chak of the respondents and allotting it on plot No. 109/3 by the Settlement Officer Consolidation, is concerned, it is an option for the respondents to claim the chak on their original holding. They have right to decide as to which of their original holding has more importance any contrary suggestion by the opposite party in this respect is immaterial. The consolidation authorities have reverted the original holding of the respondents to them, as such, there is no illegality in the impugned order. No interference is required by this Court. The writ petition is dismissed.