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**(2001) 07 AHC CK 0068**  
**In the Allahabad High Court**  
**Case No : Writ petition No.458 (Cons.) of 1997**

Ram Janam and Another

APPELLANT

Vs

Joint Director of Consolidation, Faizabad and Another

RESPONDENT

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**Date of Decision :** 31-07-2001

**Acts Referred:**

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48  
Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 — Rule 115Q

**Citation :** (2001) 07 AHC CK 0068

**Hon'ble Judges :** U.K.Dhaon, J

**Final Decision :** Allowed

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## Judgement

U.K. Dhaon, J.—Heard Sri I.D. Shukla learned counsel for the petitioners and Sri Jawed Murtaza appearing on behalf of opposite party No.2 and the learned Standing Counsel.

2. The petitioners have approached this Court against the order dated 23.3.1996 passed by the Deputy Director of Consolidation, Faizabad. Learned counsel for the petitioners submits that without affording any opportunity to the petitioners the Deputy Director of Consolidation has passed the impugned order. He further submits that plot No.621 area 5 Dhoor and plot No.623 area 5 Dhoor were allotted in favour of the petitioners by the Land Management Committee and the said allotment was approved by the SubDivisional Officer by the order dated 19.2.1982 and the application moved by opposite party No.2 for cancellation of lease deed in favour of the petitioners was also rejected by the Chief Revenue Officer by the order dated 27.1.1997.

3. Sri Jawed Murtaza appearing on behalf of opposite party No.2 submits that there is no illegality in the order of the Deputy Director of Consolidation as the land for which the Patta was executed in favour of the petitioners was not used for the purpose for which the Patta was executed and it will automatically stand cancelled in view of the provisions of Rule 115Q of U.P. Zamindari Abolition and Land Reforms Rules. He has relied upon the decision of this Court reported in

1995 RD 53, Chandrika Rai v. Dy. Director of Consolidation, Ghazipur and others and on the strength of the aforesaid judgment he submits that the land can be allotted for Chak road and as such there is no illegality in the order passed by the Deputy Director of Consolidation.

4. I have considered the arguments of the learned counsel for the parties and gone through the impugned orders.

5. There is no dispute that the Patta was executed in favour of petitioner No.1 in respect to plot No.621 area 5 Dhoor and plot No.623 area 5 Dhoor and the area of 10 Dhoor of plot No.623 was allotted to petitioner No.2 and the said allotment was approved by the SubDivisional Officer, Akbarpur by the order dated 19.2.1982. There is also no dispute that till date there is no order of any competent authority cancelling the lease of the petitioners. The question whether the Deputy Director of Consolidation can pass an order without any notice or without affording any opportunity to a person is under consideration in the instant petition as before passing the impugned order no notice was issued to the petitioners. It is the settled law of this Court as well as Hon''ble the Supreme Court that no order can be passed by any authority affecting the rights of the parties without affording any opportunity to show cause. In the instant case, no opportunity was afforded to the petitioners and as such the impugned order passed by the Deputy Director of Consolidation is legally not sustainable. The provisions of Rule 115Q of the U.P. Zamindari Abolition and Land Reforms Act will not apply to the facts of the present case as in the instant case the Chief Revenue Officer, Faizabad has already rejected the application of opposite party No.2 for cancellation of the Patta executed in favour of the petitioners.

6. In the result the writ petition succeeds and a writ in the nature of certiorari is issued quashing the impugned order dated 23.3.1996 passed by the Deputy Director of Consolidation, Faizabad and the case is remanded back to the Deputy Director of Consolidation to decide the matter afresh after affording opportunity to the petitioners. In the circumstances, there will be no order as to costs.

(Petition allowed)