
(2010) 05 AHC CK 0115
In the Allahabad High Court
Case No : Writ Petition (Con.) No.378 of 2010

Ram Manohar and Others

APPELLANT

Vs

Deputy Director, Consolidation, Faizabad and Others

RESPONDENT

Date of Decision : 25-05-2010

Acts Referred:

Citation : (2010) 05 AHC CK 0115

Hon'ble Judges : Yogendra Kumar Sangal, J

Final Decision : Dismissed

Judgement

Yogendra Kumar Sangal, J.—Heard learned counsel for the petitioners, learned Standing Counsel for the respondent no. 1 and perused the record.

2. This matter relates to the land of Plot No. 580/2 area 010 and plot no. 584 0110. Undisputedly, respondent no. 2 and 3 were recorded tenure holder of the land in dispute. Consolidation proceedings were going on in the area. As per petitioners' case respondent no. 2 & 3 have sold this property to them vide Saleded dated 24.01.1995. An application was moved to mutate the name of the petitioners in the record under Section 12 of the Consolidation of Holdings Act. After taking the evidence their names were mutated. Respondent no. 2 Jhinak challenged the order of mutation before the Deputy Director of Consolidation saying that order dated 03.05.1995 (mutating the name of the petitioners in the revenue record) is an exparte order. D.D.C. has allowed his this revision and quashed the order dated 03.05.1995 and remitted the matter to the Consolidation Officer to decide again after giving the opportunity of hearing to the parties. Aggrieved by this order a Writ Petition No. 161(Cons.)/1998 was filed by the petitioners in this Court. In that writ petition this Court vide order dated 10.04.1998 asked the opposite parties to file their counter affidavit and thereafter permitted to file rejoinder affidavit and listed the matter for the next date. It was further ordered that till the next date of listing parties shall maintain status quo. It is said that a compromise before C.O. was filed by the parties with the intervention of the villagers and taking the compromise on record accepted

the same and again the ordered that his earlier order dated 03.05.1995 shall revive on the basis of the compromise. This order was passed by the learned Consolidation Officer on 24.09.1998. Copy of the same is available at Page 34 and 35 of the writ petition. Again respondent no. 2 Jhinak knowing this order, filed a Revision before the Deputy Director of Consolidation pleading ignorance of this order dated 24.09.1998 and claimed that he has not signed the alleged Compromised deed and in collusion in his absence this order was obtained. By the impugned order giving detailed and sufficient reason, learned Deputy Director of Consolidation set aside the order dated 24.09.1998 and directed to C.O. to pass afresh order after giving opportunity of hearing and adducing evidence to the parties. Aggrieved by this order, this Writ Petition has been filed.

3. From the above, it is clear that on the basis of Saled deed, petitioners claimed themselves owner of the property and get mutated their names in the Revenue Record. This order was challenged by one of the seller before the Deputy Director of Consolidation. Learned D.D.C. has set aside the mutation order dated 03.05.1995 and directed for rehearing in the matter. A writ petition was filed before this Court against that order on behalf of the petitioners challenging the order of the Deputy Director of Consolidation and this court has passed the order of maintaining status quo in the matter. Ignoring the order of this court, again petitioners have taken steps before the Consolidation Officer saying that compromise has arrived at between the parties and on the basis of that compromise, Consolidation Officer again revived the order dated 03.05.1995. When the order dated 03.05.1995 was set aside by the Deputy Director of Consolidation and order of Deputy Director of Consolidation was challenged before this Court and this Court has directed parties to maintain status quo in the matter, at least the petitioners who was knowing this order of the court, how he pressed the court to proceed and why the C.O. also revived the order dated 03.05.1995, although that has been set aside by the Deputy Director of Consolidation not sufficiently explained. When one of the alleged seller has denied his signature on the Saled deed as well as on the Compromise deed and Deputy Director of Consolidation passed the order for rehearing in the matter, it was not proper for the Consolidation Officer to revive the order dated 03.05.1995. Giving detailed and sufficient reasons, learned Deputy Director of Consolidation has passed the impugned order which is only an order of remand to the trial court. No interference of this Court in writ jurisdiction is warranted in the order.

4. Seeing the facts and circumstances of the case, considering the arguments of the parties' counsel there appears no sufficient ground for interference of this Court in the impugned order. It is not evident that the writ petition has been filed bonafidely and the petitioners have approached this Court with clean hands. It is established law that in the Writ Jurisdiction, this Court should not act like an appellate Court on the orders passed by the subordinate courts. Interference of this Court in the writ jurisdiction should be exercised in grave cases where the subordinate courts act wholly without jurisdiction and in excess or it was in

violation of Principle of Natural justice or refused to exercise jurisdiction vested in it or there is apparent error resulting manifest injustice.

5. Writ petition has no force and it is accordingly, hereby dismissed.

6. However, it is made clear that if the order passed by this Court in earlier Writ Petition No. 161(Cons.) of 1998 is still in force, the Consolidation Officer will not initiate further proceedings in the matter till the stay order is existing in the matter.