

**(1998) 09 AHC CK 0099**

**In the Allahabad High Court**

**Case No : Writ Petition No.488 (Consolidation) of 1997**

Ram Murti

APPELLANT

Vs

D.D.C., Sultanpur & Ors.

RESPONDENT

**Date of Decision : 02-09-1998**

**Acts Referred:**

**Citation : (1998) 09 AHC CK 0099**

**Hon'ble Judges : D.K.Trivedi, J**

**Final Decision : Dismissed**

## **Judgement**

Dev Kant Trivedi, J.—Heard the learned Counsel of the parties in this writ petition filed by Ram Murti against the order dated 2491997 passed by the Deputy Director of Consolidation (Administration), Sultanpur whereby the revision filed by Ram Murti was dismissed. The petitioner claims that this order is illegal and, therefore, should be quashed.

2. The effect of the order passed by the Deputy Director of Consolidation is that the petitioner has been allotted a chak on his original holding while the opposite party No. 3 Prahlad has been allotted chak on his original holding. Earlier, the Settlement Officer Consolidation had also passed the similar order which has been affirmed in the revision.

3. The main ground of attack in the present petition is that at the level of Assistant Consolidation Officer, the petitioner was alleged a chak on the holding of opposite party No. 3, while the opposite party No. 3 was allotted chak on the holding of the petitioner and since the said order was not challenged by the opposite party No. 3, it was not open to the Settlement Officer Consolidation or for that matter, to the Deputy Director of Consolidation to pass the impugned orders and to allot the chak as has now been done on the original holdings of the parties. It is really strange that the Consolidation Officer thought it fit to make an order for allotment of chaks by giving the original holding of the petitioner to the opposite party No. 3 and of the opposite party No.3 to the petitioner. Such an order was apparently illegal, unjustified and seems to have been manipulated.

The Settlement Officer Consolidation as also the Deputy Director of Consolidation have only corrected the wrongs done by the Consolidation Officer, and in doing so, they have committed no error whatsoever.

4. The other argument of the petitioner is that the objection of the petitioner which was filed after the expiry of the period of limitation is still pending at the Consolidation Officer's stage and, therefore, the Settlement Officer Consolidation as well as the Deputy Director of Consolidation could not have passed the impugned order. This argument lacks merit in as much as even without any objection it was open to the Deputy Director of Consolidation to adjust the equities and simply because an objection was filed and is pending does not curtail the rights of the two authorities.

5. It has lastly been urged on behalf of the petitioner that he had installed a tubewell on the chak newly allotted to him. For this act of haste, petitioner himself is to be blamed. Merely because he had been successful in getting a chak on the original holding of the opposite party No. 3 and even though the matter was reagitated by the opposite party No. 3 if he installed a tubewell, he could not get any relief in the writ jurisdiction.

6. Looking into all the circumstances of the case, it will be wholly unjust and inequitable to interfere with findings recorded by the Settlement Officer Consolidation and Deputy Director of Consolidation in Revision No. 281 in exercise of the power under Article 226 of the Constitution.

7. The writ petition is dismissed. The petitioner will be at liberty to claim the compensation/damages in respect of the tubewell, if available to him under law.