
(1995) 07 AHC CK 0061

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 12354 of 1987

Ram Singar

APPELLANT

Vs

D.D.C.,Deoria and Others

RESPONDENT

Date of Decision : 25-07-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 19(e)

Citation : (1995) 07 AHC CK 0061

Hon'ble Judges : G.S.N.Tripathi, J

Final Decision : Allowed

Judgement

G.S.N. Tripathi, J.—This is a petition under Article 226 of the Constitution of India praying for a writ in the nature of certiorari quashing the impugned orders dt. 1231983 and 13th September, 1983 passed by opposite parties No. 1 and 2 respectively. The petitioner has further prayed for a direction in the nature of a mandamus directing the opposite parties to make spot inspection and to allot the Chak to the petitioner over his original holdings so that the petitioner's house and his Khirki may not be blocked and he may not be debarred from source of his irrigation etc.

2. This is strange case. Plot No. 878 belongs to the petitioner Ram Singar and plot No. 873 belongs to the respondents Awadhesh and Vikrama, respondents 3 and 4 respectively. There is a well belonging to Ram Singhar in plot No. 878. But unfortunately, the Consolidation Authorities have given virtually the whole of plot No. 873 to Ram Singar and plot No. 878 to Awadhesh and Vikrama.

3. The main grievance of the petitioner is that his house is situate towards the north of his plot. At no point of time, he ever gave his consent that his plot may be given to Awadhesh.

4. Under Section 19(e) of Consolidation of Holdings Act, there is a provision that every tanureholder is, as far as possible, allotted a compact area at the place where he holds the largest part of his holding :

Section 19(f) runs as follows :

"ever)" tenureholder is, as far as possible, allotted the plot on which exists his private source of irrigation or any other improvement, together with an area in the vicinity equal to the valuation of the plots, originally held by him there."

The stress is that as far as possible, the original tenureholder should not be displaced from his original holdings and if at all he is being displaced, there shall be cogent reasons as given in Section 19 of the Consolidation of Holdings Act.

5. In this case, without assigning any reason under Section 19 of the aforesaid Act, the petitioner has been disturbed simply to accommodate respondents 3 and 4. Of course, the land of the petitioner could have been taken by virtue of a compromise. But there is no Compromise as such between the parties. In these circumstances, there was no reason why the petitioner's holdingsplot No. 878 should have been taken away from him.

6. The Asstt. Consolidation Officer proposed a Chak to the petitioner giving him 50 decimal in area out of 70 decimal area. 2 decimal area was given in Chak road and the remaining area was allotted to the respondents 3 and 4. The petitioner felt aggrieved on account of the taking away of 2 decimal area as Chak road. He, therefore, moved higher authorities. But unfortunately, the higher authorities took more areas from him and a stage came when only 17 decimal area was given to the petitioner by the Settlement Officer Consolidation and the rest of the area was given to the respondents aforesaid. The Dy. Director of Consolidation made a further progress and he took away the entire area except 3 decimal to be left for the petitioner. All these acts were done just to accommodate respondents 3 and 4. This act on the part of the consolidation authorities, therefore, does not appear to be legally sound. In the circumstance of the case, its glaring mistake on the face of record committed by them i.e. respondents 1 and 2, Therefore the orders dated 12th March, 87 and the order dated 13th September, 1983, passed by respondents 1 and 2 respectively are set aside.

7. The petition is allowed. The respondents 1 and 2 are directed to allot the whole area of plot No. 878 to the petitioner. Similarly, they are further directed to allot the whole of plot No. 878 to respondents 3 and 4. A chak scheme shall be corrected accordingly. There shall be no Chak roads behind the houses of the parties. Cost easy. Petition allowed.