
(2016) 07 AHC CK 0175
In the Allahabad High Court
Case No : Writ-B No. 45609 of 2013

Ramajor

APPELLANT

Vs

Dy. Director of Consolidation

RESPONDENT

Date of Decision : 25-07-2016

Acts Referred:

Citation : (2016) 132 RD 733

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

Bench : Single Bench

Advocate : Dinesh Tiwari and V. Singh, Advocates, for the Petitioners; C.S.C, for the Respondents

Final Decision : Allowed

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri V. Singh for the petitioners and Sri R.P. Ram for the contesting respondents.

2. The writ petition has been filed against the order of Deputy Director of Consolidation dated 11.7.2013 in chak allotment proceeding under U.P. Consolidation of Holdings Act, 1953(hereinafter referred to as "the Act").

3. By the impugned order Deputy Director of Consolidation has carved out a chak road through plot no. 433, 438/9 and 438/10.

4. Ramajor and others (petitioners) were chak holder no.193. It may be mentioned here that Ramajor and others and Raj Dev(respondent-2) were cosharers in plot nos. 433 and 438, and an area of 0.105 hectare of plot no.433 and an area of 0.102 hectare of plot no. 438/8/1 were chak out on the spot. Chak of Rajdev was allotted on plot no. 433 etc. which was in east of the portion which was chak out in plot no. 433. While chak of Ramajor, was in west of chak out in plot no. 433. Rajdev filed an objection in chak allotment matters. On his objection his second chak on plot no.464 was slightly modified. Thereafter he filed an appeal before the Settlement Officer, Consolidation. In the appeal Rajdev demanded an area of 0.100 hectare be reduced from his second chak and

allotted in his first chak on plot no. 433 and a chak road from western side be extended upto his chak on plot no. 433. Settlement Officer, Consolidation by order dated 22.2.2012 found that plot no. 433 was situated adjoining to abadi of the parties and they were allotted area in proportion to their shares at this place as such it was not possible to increase 0.100 hectare area in chak of Rajdev on plot no. 433. The petitioners had a chak road for going to their chak on plot no. 433 as such their demand in this respect is also not accepted. On this finding he dismissed the appeal of Rajdev. Rajdev filed a revision against the aforesaid order. In the revision again same demand was made by him. The petitioners filed an objection and had stated that area of plot no. 433, which was allotted in third chak was not liable to be reduced inasmuch they had also their house over plot no.433 where they had their private source of irrigation also. There has been a chak road in the eastern of chak of Rajdev in plot no. 433. In case chak road in western side is extended upto plot no. 433 then their chak on plot no. 438 will be divided in two parts. In the light of the controversy, Deputy Director of Consolidation made spot inspection and prepared a inspection memo. In the inspection memo, he has shown chak of Rajdev i.e. chak no. 443 is in south of chak no. 345 but he has not shown chak road in between chak no. 443 and 345. The chak road is also in eastern side of chak no. 443 (plot no. 433). Respondent-2 with his signature and signatures of other villagers filed an application on 28.5.2013 before Deputy Director of Consolidation that they were agreed for extending the western chak road through his chak on plot no.433 and connecting it to the chak road in eastern side. The revision was decided by Deputy Director of Consolidation, who by the impugned order has extended the chak road in the western side through chak no.193 and 443 upto chak road in the eastern side. Thus, both these chaks were divided in two parts. Hence, this writ petition has been filed.

5. I have considered the arguments of the counsel for the parties and perused the record.

6. A perusal of the chak map as well as the application moved by Rajdev before the Deputy Director of Consolidation dated 28.5.2013 it is admitted that there was a chak road in the eastern side of chak no. 443 on plot no.433. Thus, respondent-2 has no necessity to access his chak through chak road. Deputy Director of Consolation has connected chak road of western side to the chak road of eastern side without assigning any reason due to which the chak of the petitioners as well as that of respondent-2 both were divided in two parts at the same place, which is contrary to the consolidation scheme. The object of the consolidation is that every chak holder should have access of chak road. The object is fulfilled as Rajdev has chak road in eastern side of his chak on plot no. 433. However, carving out chak road and connecting it in eastern side was not required at all as such the impugned order is illegal and liable to be set aside.

7. The counsel for the respondents, however, submits that respondent-2 has his house on plot no. 433, therefore, he was in need of chak road upto his abadi and

house on plot no. 433. In case this chak road is abolished then he would not be able to go upto his house. This argument of the counsel for the respondents is not liable to be accepted as before the consolidation authorities he had nowhere stated that he had no way to access his house in plot no. 433. On the other hand a perusal of chak map filed as Annexure No. 5 to the writ petition shows that there is a chak road in northern side of plot no. 433, which was upto chak out portion of plot no. 433, in which it is claimed that respondent-2 has his abadi. In the eastern side respondent-2 has his chak. Therefore, it cannot be said that respondent-2 cannot go upto his house. In any case no such demand has been set up before the consolidation authorities as such this factual demand cannot be examined by this Court.

8. In the result the writ petition succeeds and is allowed. The order of Deputy Director of Consolidation dated 11.7.2013 is set aside. The chaks of the parties of stage of Settlement Officer, Consolidation are maintained.