
(2014) 01 AHC CK 0269
In the Allahabad High Court
Case No : W.P. (Cons.) Nos. 687 and 691 of 2013

Ras Bihari Singh	Vs	APPELLANT
Deputy Director of Consolidation		RESPONDENT

Date of Decision : 13-01-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 19A, 20, 9, 9A(2)
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 176

Citation : (2014) 124 RD 484

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Advocate : Mushtaq Ahmad Siddiqui, Advocate for the Appellant; Amitabh Shukla, Pradeep Tiwari and S.C. Sitapuri, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sibghat Ullah Khan, J.—Heard Sri M.A. Siddiqui, learned Counsel for petitioner and Sri S.C. Sitapuri, learned Counsel for contesting respondent. C.O. passed the order on 28.2.2013 in Case Nos. 156 to 161, 154 to 160. Against the said orders, three appeals being Appeal Nos. 367, 368 and 369 were filed, two by Ban Bihari and one by Ras Bihari. S.O.C., Faizabad dismissed the appeals on 23.5.2013. Against the said order, Revision No. 1472/856 was filed by Ras Bihari and Revision No. 1293 was filed by Ban Bihari. First revision was dismissed by D.D.C. on 23.10.2013 and the second revision on 22.8.2013, hence this writ petition.

2. The case of the petitioner in the first writ petition was that he had purchased agricultural land through registered sale-deed dated 28.4.1974 and order of mutation had also been passed in his favour on 30.11.1978., however the order of mutation was not carried out in the revenue record and after the death of the seller, the property was wrongly mutated in the name of his son and after the death of his son in the name of his son. Petitioner had filed objections before the C.O. During Chak carvation proceedings petitioner contended that either the

chak carving proceedings must be stayed or the plot in dispute should be allotted in the chak of the recorded tenure holder so that the same may be given to him in case his objections u/s 9A(2) are allowed.

3. The argument of learned Counsel for petitioner is that unless all the objections pertaining to title u/s 9A(2) of U.P.C.H. Act are disposed of by the Consolidation Officer, Chak carving exercise shall not be started. On the direction of the Court, learned Additional C.S.C. obtained instructions and informed that out of 399 claims, 382 matters had been decided and only 17 were pending before C.O. and out of those 17, 6 were of petitioner of the first writ petition. Petitioner has not stated that long pendency of his objections is not attributable to him. May be, the petitioner himself is seeking adjournments, however it is not much relevant.

4. There is no provision under U.P.C.H. Act which prohibits exercise of chak carving until each and every objection pertaining to title is decided. Moreover, several matters pertaining to title dispute decided by C.O., thereafter by S.O.C. and thereafter by D.D.C. are brought upto High Court wherein writ petitions remain pending for years. It is not warranted that until each and every title matter has finally been decided, chak carving exercise shall not be taken. If ultimately petitioner's title is upheld, the corresponding chak, which is allotted to the grand-son of the executant of the sale-deed will be given to the petitioner. As the grand-son is opposing petitioner's objection u/s 9A(2), hence he is not expected to opt for less advantageous land just to harm the petitioner. Accordingly, I do not see any reason to direct to withhold the proceedings for chak carving until final decision of petitioner's objection based on title. First writ petition is therefore dismissed.

5. Same point is involved in the second writ petition. The case in the second writ petition was that Chak No. 209 belonged to Bans Bahadur Singh, son of Kedarnath Singh, Chak No. 110 to Jangjeet Singh son of Bhagwan Bux Singh and Chak No. 199 to Bramhadeo son of Balchandra however in lieu of their original plot Nos. 374, 375 and 371 they had taken other plots, i.e. 143 and 148 in their chaks. Contention of petitioner was that as title dispute was going on in respect of plots No. 374, 375 and 371, hence chaks to the aforesaid persons must be allotted on the same plots. The plea was turned down by the Court below. The Revisional Court held that if petitioner's title was upheld then he could make prayer for suitable chak. I do not find least error in the said orders. In this regard reference may be made to Full Bench authority reported in Smt. Mewati Devi Vs. Deputy Director of Consolidation, Gorakhpur, wherein it has been held in para-21 that consolidation authorities are not required to await the disposal of all the objections filed u/s 9 of the Act before initiating proceedings for preparation and publication of the provisional Consolidation Scheme under sections 19A and 20 of the Act. Learned Counsel for petitioner has also referred to paras 230 and 231, Chakbandi Manual. However in view of Full Bench authority, it is quite clear that it is not necessary that each and every objection pertaining to title should first be

decided then chak carvation exercise shall be initiated.

6. Reference to a judgment passed by this Court on 16.10.2012 in Misc. Single No. 5868 of 2012, Nisar Ahmad v. S.D.O. by learned Counsel for petitioner is misplaced. In the said case, a direction was issued to decide a suit u/s 176 of U.P.Z.A. & L.R. Act expeditiously and a general direction was also issued to decide the cases expeditiously. Moreover, petitioner is not going to suffer any loss. If his title is ultimately upheld he may apply to get suitable land as per liberty granted through the impugned orders passed by the D.D.C. Accordingly, both the writ petitions are dismissed.