
(1995) 07 AHC CK 0126
In the Allahabad High Court
Case No : C.M.W.P. No. 16294 of 1986

Rojan and Another

APPELLANT

Vs

Joint Director of Consolidation and Others

RESPONDENT

Date of Decision : 05-07-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 19, 19(1)

Citation : (1995) 07 AHC CK 0126

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

Bench : Single Bench

Advocate : Suresh Chandra Verma, for the Appellant;

Final Decision : Dismissed

Judgement

G.S.N. Tripathi, J.—This is a petition Under Article 226 of the Constitution with a prayer that by a writ of certiorari the Order dated 29.7.1986 (Annexure VII), passed by the Joint Director, Consolidation, Basti, Respondent No. 1 be quashed.

2. The dispute relates to carnation of chaks. Originally, the Settlement Officer, Consolidation (S.O.C.) had allotted a chak at some other place. The dy. Director of Consolidation (D.D.C.) by exercising the Jurisdiction vested on him for correcting the Illegality "and judging propriety in the judgment of the lower court, changed the location of the chalk. Therefore, the Petitioner has felt aggrieved and filed this writ petition.

3. I have heard learned Counsel for the parties. The Petitioner resides in village Khaderia Ganesh. The Respondents reside in Khaderia Buzurg, and property lies in an altogether a third village, although the three villages are contiguous to each other. The conditions to be fulfilled by consolidation scheme as contemplated in Section 19 of the Uttar Pradesh Consolidation of Holdings Act, 1953 provides in paragraph (e) as follows:

(e) every tenure-holder is, as far as possible, allotted a compact area at the

place where he holds the largest part of his holding:

Provided that no tenure-holder may be allotted more chalks than three, except with the approval in writing of the Deputy Director of Consolidation.

Paragraph (j) runs as follows:

(f) every tenure-holder 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.

4. While changing the scheme given by the S.O.C., the learned D.D.C. took into consideration the provisions of paragraph (f) of Section 19(1) as quoted above. It cannot be said that he committed any illegality in taking into consideration this provision of law. Of course, the jurisdiction is vested in him to take into consideration the provisions of paragraph (e) quoted above. By taking into consideration paragraph (j), however, he committed no illegality. It is not disputed that at this place, the Respondents have a private source of irrigation of their own. This source of irrigation could not be shifted. Therefore, for providing better irrigational facilities at the disputed place, if the Respondents had made arrangements of their private source of irrigation, that was a valid consideration, which could not have been ignored by J.D.C. of course, the jurisdiction vested in this Court Under Article 226 is unlimited. But at the same time, this Court has no appellate jurisdiction over the orders passed by both the courts Under Article 226 of the Constitution. In these circumstances, I find that no illegality has been committed by the Joint Director of Consolidation.

5. The writ petition has no force. It is being dismissed. Cost easy.