
(2006) 11 AHC CK 0154

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 18402 of 1988

Rudal

APPELLANT

Vs

Dy. Director of Consolidation & Ors.

RESPONDENT

Date of Decision : 24-11-2006

Acts Referred:

Citation : (2006) 11 AHC CK 0154

Hon'ble Judges : Krishna Murari, J

Final Decision : Partly Allowed

Judgement

Krishna Murari, J.—Heard learned Counsel for the petitioner.

2. This petition arises out of Chak allotment proceedings. The petitioner as well as contesting respondent No. 3 were satisfied by the proposed allotment of their chaks as no objection was filed by them. However, the chak of respondent No. 3 was disturbed by the Consolidation Officer on the objection filed by some other tenure holder. Aggrieved by the same he filed an appeal. The Settlement Officer, Consolidation vide order dated 1521986 allowed the appeal and the Chak proposed to the petitioner was disturbed by the said order. Feeling aggrieved the petitioner preferred a revision which was dismissed by the Deputy Director of Consolidation vide order dated 2111987. The petitioner who was a minor at that time and was contesting the proceeding through his mother, moved an application to recall the order dated 2211987 on the ground that it was an ex parte order passed without hearing his Counsel. It was pleaded in the affidavit filed in support of restoration application that on 181987 the case was adjourned to 2281987. The case could not be heard on account of strike by the employees of the Court and the Presiding Officer was also transferred. Thereafter, without any notice the Court was held in the camp at Kasia situate at a distance of 34 km. from the District Headquarters and the revision was dismissed without any opportunity of hearing. The restoration application was moved on behalf of the petitioner on 22121987 within one month from the date of passing the alleged ex parte order. The Deputy Director of Consolidation vide impugned order dated

2461988 dismissed the restoration application. The only finding recorded by Deputy Director of Consolidation in the impugned order is that there is no force in the restoration application. No reason has been recorded by the Deputy Director of Consolidation for rejecting the restoration application. The Deputy Director of Consolidation has also failed to record any finding with respect to the averments made on behalf of the petitioner in the recall application. The impugned order dated 2461988 passed by Deputy Director of Consolidation rejecting the restoration application being totally devoid of reasons cannot be sustained and is hereby quashed. The writ petition stands partly allowed.

3. The case is remanded back to Deputy Director of Consolidation for considering the restoration application afresh in accordance with law.

4. In view of the fact that matter has remained pending for a long period the Deputy Director of Consolidation is directed to decide the restoration application of the petitioner within a period of three months from the date of production of certified copy of this order before him.