
(2017) 04 AHC CK 0215
In the Allahabad High Court
Case No : 70899 of 2009

SADHU LAL

APPELLANT

Vs

D D C & OTHERS

RESPONDENT

Date of Decision : 25-04-2017

Acts Referred:

[Uttar Pradesh Consolidation of Holdings Act, 1953](#), [Section 19](#), [Section 48](#), [Section 9A\(2\)](#)

Citation : (2017) 04 AHC CK 0215

Hon'ble Judges : Suneet Kumar

Bench : Single Bench

Advocate : Bhanu Bhushan Jauhari

Final Decision : Allowed

Judgement

1. In view of the office report, service upon the respondent nos. 2 to 6 is deemed sufficient.
2. Heard learned counsel for the petitioner and learned counsel for the State respondent.
3. Petitioner is the sole legal heir of Jamuna Devi and Lakhan who were having agriculture holding in village Pasgawan, Pargana Jamaur, Tehsil Sadar, District Sahajanpur, which is reflected in Form CH23. Jamuna Devi died on 20 May 2003 and Lakhan died on 27 July 2005. During consolidation proceedings chak no. 279 and chak no. 1058 was prepared for Jamuna Devi and Lakhan respectively. It appears that certain objections were filed under Section 9A(2) of U.P. Consolidation of Holdings Act, 1953 (Act) which was decided by the Consolidation Officer on 12 February 2009, whereby, some land of the original holding of the petitioner was taken out and chaks allotted to other members. Petitioner being unaware of the proceedings did not challenge the order. Aggrieved persons filed appeal being Appeal No. 76, wherein, neither Lakhan/Jamuna Devi nor the petitioner was impleaded which was allowed by the Settlement Officer

Consolidation on 28 May 2009 along with other appeals. Aggrieved, the second respondent, holder of chak no. 792, filed a revision under Section 48 of the Act, wherein, parties to the appeal were not arrayed as parties, however, Jamuna Devi and Lakhan, who had died were impleaded and some other persons were made a party who were not before the appellate authority.

4. The process server submitted a report on 25 September 2009 that Jamuna Devi and Lakhan were reported dead, however, despite the report, their legal heirs (petitioner) was neither impleaded nor was he aware of the proceedings. The revisional authority did not direct that the legal heirs of the Jamuna Devi and Lakhan be brought on record despite the report. The revisional authority by the impugned order dated 21 November 2009 allowed the revision, whereby, the entire original holding of the petitioner was changed and low lying area was allotted to the petitioner.

5. It is sought to be urged by the learned counsel for the petitioner that the petitioner would have no objection in case, chaks were prepared as per the proposed allotments made by the Consolidation Officer, however, by the impugned order which was admittedly, passed against dead persons, who were not represented by any counsel, neither, the legal heir were substituted, even otherwise, the chak has not been prepared in terms of the provisions of Section 19 of the Act. The original holding of Jamuna Devi and Lakhan could not have been disturbed by allotting entire new chaks away from their original holdings. It is further sought to be urged that Jamuna Devi and Lakhan were not a party of the consolidation proceedings up to the stage of the appellate authority i.e. Settlement Officer (Consolidation). 6. Having due regard to the facts and circumstances of the case, the impugned order dated 21 November 2009 passed by the first respondent, Deputy Director of Consolidation is set aside and quashed, the matter is remanded to the first respondent to decide afresh after due notice to all the affected parties.

Subject to the above, the writ petition stands allowed.