
(2014) 04 AHC CK 0204
In the Allahabad High Court
Case No : Writ-B No. 10653 of 2014

Sakhi Chand

APPELLANT

Vs

D.D.C.

RESPONDENT

Date of Decision : 15-04-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 20, 21(2)

Citation : (2014) 123 RD 388

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

Bench : Single Bench

Advocate : Pramod Kumar Shahani and R.C. Singh, Advocate for the Appellant;
A.K. Singh, A.K. Pandey and P.K. Jaisawal, Advocate for the Respondent

Judgement

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Ram Surat Ram (Maurya), J.—Heard Sri R.C. Singh, for the petitioners and Sri Anil Kumar Singh, for the contesting respondents. The writ petition has been filed for quashing the orders of Settlement Officer Consolidation dated 11.10.2013 and Deputy Director of Consolidation dated 3.2.2014, arising out of chak allotment proceeding under U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the "Act").

2. Plot 369 (area 0.210 hectare) of village Adadih, tahsil and district Mau was the original holding of the petitioners. During consolidation, Sakhi Chand (petitioner-1) was allotted chak No. 495 on plots 366 and 369 of an area of 0.100 hectare and Moti Chand (petitioner-2) was allotted chak No. 308 on plot 369 of an area of 0.100 hectare. On the spot chak No. 308 is in northern side of chak No. 495. Assistant Consolidation Officer proposed a chak road through plot 369 in between the chaks of the petitioners. The petitioners filed a time barred objection (registered as Case No. 593) under section 20 of the Act, against carving out chak road in between their chaks. The Consolidation Officer, by order dated 15.6.2013 changed the location of chak road and carved out in northern and eastern side of chak 308.

3. Marchhoo (respondent-3) filed an appeal (registered as Appeal No. 436/983/2013-14) under section 21(2) of the Act. The petitioners filed another appeal (registered as Appeal No. 440/987/2013-14) under section 21(2) of the Act, from the order of Consolidation Officer. Both the appeals were consolidated and heard by Settlement Officer Consolidation, who by order dated 11.10.2013 held that during spot inspection it was found that the portion of the chak road in plot 369 in the northern side is useless. Chak road as provided by Assistant Consolidation Officer in between the chaks of the petitioners was correctly given. Demand of the petitioners for abolishing chak road at this place was not liable to be accepted. On these findings the appeal of the petitioners was dismissed and appeal of Marchhoo was allowed and position of the chak road of the stage of Assistant Consolidation Officer has been maintained.

4. Sakhi Chand (petitioner-1) filed a revision (registered as Revision No. 370/2013-14) from the aforesaid order. The revision was heard by Deputy Director of Consolidation, who by order dated 3.2.2014 held that the chak road is useful for connecting the abadi from metallic road. On this findings the revision was dismissed by order dated 3.2.2014. Hence this writ petition has been filed.

5. The Counsel for the petitioners submitted that a small abadi of mallah community is situated on plot 376 which abutted on the metallic road in its northern side. There is also an old rasta in the eastern side of this abadi, in plot 377. The persons whose houses are situated in the southern side of this abadi are using this rasta of plot 377. There is absolutely no necessity of the chak road at this place. The consolidation authorities have illegally carved out a chak road in between the chaks of the petitioners, which is a permanent nuisance for them as the cattle passing through the chak road will always damage the crops of the petitioners. Plot 369 was the single original holdings of the petitioners on which they were allotted chak. The chak road which has been provided in between the chaks of the petitioners is liable to be abolished.

6. In reply to the aforesaid arguments, the Counsel for the respondents submitted that there were more than 20 houses in this abadi plot 376. Plot 377 is also an abadi plot. Only 6-7 houses in plot 376 abutted to the metallic road in its northern side. Remaining houses situated in the southern side have no excess of the metallic road. The persons, whose houses are situated in front of plot 377 have occupied the portion of this plot in front of their houses for tying cattle etc. Looking to the extreme need of the people whose houses situate in the southern side, Assistant Consolidation Officer, in consultation of the members of Consolidation Committee carved out a chak road in between the chaks of the petitioners. There is already a chak road in the western, side of the chaks of the petitioners, in which the disputed chak road joins. There is absolutely no harm to the petitioners from this chak road. On the other hand it serves public purposes. Settlement Officer Consolidation also made spot inspection and was satisfied with the utility of this chak road. The writ petition has no merit and is liable to be dismissed.

7. I have considered the arguments of the Counsel for the parties and examined the record. A perusal of the chak map shows that in the western side of the chaks of the petitioners, a chak road in north south has been carved out. In the eastern side of the chaks of the petitioners also there is chak road by the side of abadi through plot 368 and 381. By taking small area of the land of plot 369 disputed chak road has been carved out in between the chaks of the petitioners. It does not affect the shape of the chak of the petitioners. It connects abadi with chak road lying in the western side of the chak of the petitioners, which connects the metallic road in the northern side. A perusal of the map shows that major portion of plot 376 is away from the metallic road in the northern side. The contention of the respondents appears to be correct that only 6-7 houses abutted to the metallic road. About 12-13 houses of southern side have no access to metallic road except through the sahan land of various persons. The disputed chak road serves better public purpose. Settlement Officer Consolidation after spot inspection was satisfied with the need of this chak road-There is nothing on record to take a contrary opinion. The writ petition has no merit and is dismissed.