
(1976) 10 AHC CK 0025
In the Allahabad High Court
Case No : Writ Petition No. 295 of 1971

Satya Narain and others

APPELLANT

Vs

Ram Manohar and others

RESPONDENT

Date of Decision : 05-10-1976

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 9

Citation : (1976) 10 AHC CK 0025

Hon'ble Judges : D.N.Jha, J

Final Decision : Allowed

Judgement

D. N. Jha, J.

The petitioners have challenged the orders passed by the Settlement Officer dated 2321970 and that of the Deputy Director of Consolidation dated 13101970.

The petitioner had filed objections with respect to initial allotment of Chaks and he claimed that he be given plots nos. 1446 and 1449 which were his original plots on the ground that they being nearer to his house could be utilized by him. The Consolidation Officer made a local inspection and after examining the petition allowed the objection on 1421970 and allotted plots, nos. 1446 and 1449 in the Chak of the petitioner. This order is Annexure2. One Ram Abhilakh preferred an appeal and the Settlement Officer ((Consolidation) vide his order dated 2321970 disturbed the chak of the petitioner and reserved these plots for Abadi and instead gave him plot no. 1445. This order is Annexure3. The petitioner went up in revision and the revision was dismissed. The petitioner has now come up before this Court. The petition is not contested in spite of service.

I have heard the learned counsel for the petitioner. I am satisfied that the petition deserves to succeed. The Deputy Director of Consolidation and the Settlement Officer (Consolidation) committed an error by only looking into the relevant record. They lost sight of fact that the Consolidation Officer after making the local inspection felt the necessity of giving plots, nos. 1446 and 1449 to the

petitioner. This is based on evidence which was examined by the Consolidation Officer. The Deputy Director of Consolidation and the Settlement Officer (Consolidation) should have made a local inspection before upsetting the order. These plots were kept for Abadi and were not given over to Ram Abhilakh who was the petitioner. There was hardly any justification for taking over plots nos. 1446 and 1449 from the Chak of the petitioner. The Settlement Officer (Consolidation) and the Deputy Director of Consolidation has not assigned any reasons for reserving these Chaks for Abadi. The consolidation scheme also did not reveal for reservation of these plots for abadi or for any other collateral purposes. The impugned order passed by the Deputy Director of Consolidation is, in my opinion, based on no evidence and, therefore, cannot be sustained in the eyes of law.

The result is that the petition succeeds and is allowed. The order dated 13101970 passed by the Deputy Director of Consolidation is quashed. Let certiorari issue accordingly to cancel the original of the same. I further direct that the revision will be restored by the Deputy Director of Consolidation who after making the local inspection and considering the facts and circumstances may pass such order as he discuss necessary in accordance with law. Let mandamus issue accordingly. I, however, make no order as to costs.