
(2014) 02 AHC CK 0130
In the Allahabad High Court
Case No : Writ-B No. 6056 of 2014

Sharda Prasad

APPELLANT

Vs

District Collector/District D.D.C. and Others

RESPONDENT

Date of Decision : 06-02-2014

Acts Referred:

Citation : (2014) 123 RD 62

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

Bench : Single Bench

Advocate : Sukesh Kumar and S.N. Yadav, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri Sukesh Kumar for the petitioner. This writ petition has been filed against the orders of Deputy Director of Consolidation dated 26.11.2013 and Settlement Officer, Consolidation dated 26.6.2008, by which the appeal was allowed and the matter was remanded to the Consolidation Officer for deciding afresh on merit and the revision filed by the petitioner has been dismissed.

2. The dispute relating to correction of map as well as area of plot Nos. 309,310 and 311, u/s 9-A(2) of the Act, was raised before the CO between the petitioner and Bajedar Khan (now represented by respondents 7 to 13). It appears that the respondents were taking adjournments before the CO and were not arguing the case, therefore, the petitioner moved an application before the SOC, on which the SCC by order dated 16.8.2000 directed the CO to decide the case on merit, without granting any undue adjournment. On the basis of this order, the petitioner moved an application before the CO for preponing the date in the appeal in which 13.10.2000 was the date fixed for final hearing, which was preponed to 25.9.2000 on the application of the petitioner and thereafter, the case was decided by the CO by an ex parte order dated 21.11.2000.

3. Bajedar Khan and Others filed an appeal from the order dated 21.11.2000

before the SOC. The SOC by the impugned order dated 26.6.2008 found that although the CO has preponed the date as 25.9.2000, but no notice was served upon the appellants regarding preponing of the date, as such, the order of CO was passed without giving proper opportunity of hearing to the appellants. On these findings, the appeal was allowed and the order of CO dated 21.11.2000 was set aside and the matter was remanded to the CO for deciding the dispute afresh, after hearing the parties. The petitioner filed Revision No. 1 of 2012-13 from the aforesaid order, which has been dismissed by the order dated 26.11.2013. Hence, this writ petition has been filed.

4. The Counsel for the petitioner submits that the evidence of the parties has been completed and the case was fixed before the CO for final arguments, in which the respondents have been taking adjournments. In such circumstances, there was no other way except to decide the objection, without hearing the respondents, as they voluntarily did not turn up for arguments. The CO has not committed any illegality in deciding the objection on merit as the SOC himself has directed for deciding the case on merit. He further submits that in any case, the entire evidence as well as material was on record. The SOC as well as DDC, both were competent to decide all the issues between the parties, relating to facts and law and it was well within their jurisdiction to pass a reasoned order on merit, after hearing the parties, instead of remanding the case, which will linger the proceeding without any reason. He relied upon the judgment of Supreme Court in the case of Preetam Singh (Dead) by L.Rs. and others Vs. Assistant Director of Consolidation and others, in which, it has been held that the DDC has unfettered powers to decide the issue relating to fact as well as law in the revision.

5. I have considered the arguments of Counsel for the petitioner and examined the record.

6. In Preetam Singh's case (supra), the controversy was as to whether the remand order of SOC, which was not challenged earlier before the DDC, can be challenged after remand as well as the appellate order. In this context, the case was decided and relying upon the earlier judgment of the Supreme Court in Jasraj Inder Singh Vs. Hemraj Multanchand, and Smt. Sukhrani (Dead) by L.R.S. and Others Vs. Hari Shanker and Others, the Court held that the validity of remand order can be examined by the higher Court, even if it was not challenged earlier. Therefore, the case law decided in the case of Preetam Singh (supra) has no application in this matter.

7. The writ petition has been filed against the order of remand, by which the petitioner has been given equal opportunity of hearing before the Court below. At present, no prejudice has been caused to the petitioner. In case the writ petition is entertained in this Court, then it will go on for another 30 - 40 years. In such circumstances, this Court is not inclined to interfere with the remand order. The writ petition has no merit and is dismissed.