
(2015) 05 AHC CK 0096
In the Allahabad High Court
Case No : Writ-B No. 19428 of 2007

Shyam Singh

APPELLANT

Vs

Dy. Director of Consolidation, Baghpat and Others

RESPONDENT

Date of Decision : 11-05-2015

Acts Referred:

Citation : (2015) 128 RD 355

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

Bench : Single Bench

Advocate : S.K. Tyagi, for the Appellant; Hari Om Khare, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Ram Surat Ram (Maurya), J—Heard Shri S.K. Tyagi, learned Counsel for the petitioner and Shri Hari Om Khare, learned Counsel for the contesting respondents. The writ petition has been filed against the order of Deputy Director of Consolidation dated 21.2.2007 passed in Chak allotment proceeding.

2. The grievance of the petitioner was in respect of decreasing the valuation of Plot Nos. 2753, 2754, 2755, 2756, 2820, 2821 and 2822. While preparing the statement of principle valuation of the aforesaid plots were determined @ 60 paise. Notification under section 9 of the Village was made on 5.1.1987. However, no objection within time was filed for increasing the valuation of the aforesaid plots. The petitioner filed a time barred objection on 6.10.2003 for enhancement of the valuation of the aforesaid plots from 60 paise to 70 paise. The Consolidation Officer called for a report and the Consolidator submitted his report dated 3.1.2004 mentioning therein that the aforesaid plots i.e. Plot No. 2751, 2750, 2765, 2764, 2759, 2760 and 2789 were valued @ 60 paise. While Plot No. 2822 was valued @ 70 paise, 2810 was valued @ 50 paise. Thus apart from Plot No. 2810 and 2822, all the other surroundings plots were valued @ 60 paise. Thereafter the Consolidation Officer by two separate orders dated 3.3.2005 found that the land in dispute was situate at high level than other

surroundings plots as such the valuation determined of the land in dispute @ the surrounding plots which were the land of low level, was not proper, accordingly he enhanced the valuation of Plot Nos. 2753, 2754, 2755, 2756, 2757 & 2783 @ 70 paise and similarly by a separate order valuation of Plot No. 2753, 2754, 1754, 2755, 2756 and 2757 and 2753 were determined @ 70 paise.

3. There were the several chaks revision before the Deputy Director of Consolidation. While deciding the chak revisions, valuation of the aforesaid plots @ 70 paise was challenged. The Deputy Director of Consolidation by the impugned order dated 21.2.2007, found that the surrounding plots were valued @ 60 paise and there was no basis for the Consolidation Officer to increase the valuation of the aforesaid plots and @ 70 paise. Accordingly, the valuation of the aforesaid plots were again reduced @ 60 paise. Hence, this writ petition has been filed.

4. I have considered the arguments of the learned Counsel for the parties and examined the record.

5. A perusal of the report of the consolidator shows that Village was notified under section 9 on 5.1.1987 while the objection under section 9-B was filed on 6.10.2003 alongwith the delay condonation application. Under section 9-B(2), the Consolidation Officer was required to make spot inspection in the presence of member of Consolidation Committee while deciding such objection. Rule 24-D as well as Rule 26(5) of the Rules requires the Consolidation Officer to prepare spot inspection memo and keep the spot inspection memo on the record. In this case, the procedure as prescribed under section 9-B(2) of the Act read with Rule 24-D and Rule 26(5) had not been followed. The report of the consolidator does not indicate the aforesaid mentioned plots were lying at high level and its surrounding plot lying at a low level. But the Consolidation Officer has recorded finding in this respect also. Thus the order of the Consolidation officer suffers from apparent illegality.

6. In such circumstances, the Deputy Director of Consolidation has not committed any error in setting aside the order of Consolidation Officer. However, the Counsel for the petitioner states that the Deputy Director of Consolidation was required to follow the same procedure before setting aside the order of Consolidation Officer but the Deputy Director of Consolidation Officer has also not make spot inspection and set aside the order of Consolidation Officer. Thus, the objection of the petitioner was dismissed without following the proper procedure forever. In such circumstances the matter is required to be remanded for deciding the objection of the petitioner on merit according to the procedure prescribed under the law.

7. However, the Counsel for the respondents dispute the correctness of the objection as well as the orders passed by the Consolidation Officer. He submits that although two orders were kept on the record in respect of the same disputed Case No. 87 but the language of the two orders were different. Thus the

correctness of the record has also been challenged by the respondents.

8. I have considered the rival contentions of the parties in this respect. As the respondent is disputing the correctness of the objection filed by the petitioner as such it will be appropriate for the Consolidation Officer to verify as to whether any objection was filed by the petitioner under section 9-B of the Act or not and whether there is sufficient cause for condoning the delay.

9. In such circumstances, the Consolidation Officer may decide the dispute between the parties in this respect afresh. The parties may appear before the Consolidation Officer on 19.5.2015 and thereafter the Consolidation Officer may summon the record and decide the dispute afresh in accordance with law after hearing the parties preferably within a period of six months from the date of production of certified copy of this order. If the application is found genuine, then he will decide the application on merits. The writ petition is disposed of with the aforesaid direction.