

(1983) 04 AHC CK 0044
In the Allahabad High Court
Case No : Writ Petition No. 1146 of 1983

Smt. Kabootri and Others

APPELLANT

Vs

Consolidation Officer and Others

RESPONDENT

Date of Decision : 14-04-1983

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 11A, 11A(1), 19, 19(A), 20(2)

Citation : (1983) 04 AHC CK 0044

Hon'ble Judges : K.N. Misra, J

Bench : Single Bench

Advocate : S. Mirza and Jagdish Singh, for the Appellant;

Final Decision : Dismissed

Judgement

K.N. Misra, J.—Heard learned Counsel for the Petitioners and perused the averments contained in the writ petition. It appears that objections u/s 9-A(2) of U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the Act) were filed by the Petitioners in respect of their respective lands to which they claimed to be tenure-holders in possession. These objections are said to have been dismissed in default and on that very day restoration applications were moved before the Consolidation Officer and the same have been restored and are still pending awaiting decision on merits. In the meantime, it is alleged that proceedings for preparation of Provisional Consolidation Scheme started in the village regarding carving of chaks by bringing the land in dispute into common pool. Petitioners of this writ petition want that proceedings for preparation of provisional consolidation scheme u/s 19 and 19A of the Act be stayed. Learned Counsel contended that unless all the objections u/s 9-A(2) of the Act are determined, the Consolidation Authorities cannot proceed to prepare the provisional consolidation scheme under Chapter III of the Act. I am unable to agree with this contention. Sub-section (2) of Section 20 of the Act, which deals with the matter, reads as follows:

Subject to the provisions contained in Section 11A, any person to whom notice has been sent under Sub-section (1), and any other person affected by the Provisional Consolidation Scheme disputing the propriety or correctness of the entries in the Provisional Consolidation Scheme, or in the extracts furnished therefrom, may, within fifteen days of the receipt of the notice, or of the date of the publication of the Provisional Consolidation Scheme, as the case may be, file an objection before the Assistant Consolidation Officer or the Consolidation Officer.

A perusal of the aforesaid provision indicates that subject to the provisions of Section 11A of the Act, any person affected by the Provisional Consolidation Scheme disputing the propriety or correctness of the entries in the Provisional Consolidation Scheme or in the extracts furnished therefrom may within fifteen days of the receipt of notice or of the date of publication of the Provisional Consolidation Scheme, as the case may be, file an objection before the Assistant Consolidation Officer or the Consolidation Officer. It is not disputed that Petitioners have already filed objections u/s 9-A(2) asserting that they are tenure-holders in respect of the land in dispute. Allotment of chaks will not bar their claim with regard to the land in dispute because provisions of Section 11A of the Act will not be attracted and will not operate as a bar against the Petitioners in filing objections under Sub-section (2) of Section 20 of the Act upon the publication of Provisional Consolidation Scheme. In this view of the matter, I do not find that merely because objections u/s 9-A(2) of the Act, concerning title in respect of the land in dispute, are pending the Consolidation Authorities cannot proceed to prepare and publish Provisional Consolidation Scheme.

2. The writ petition, being devoid of merits is accordingly dismissed in limine subject to the observations made above.