
(2010) 08 AHC CK 0355
In the Allahabad High Court
Case No : Writ-B No, 33840 of 2010

Subhash and another

APPELLANT

Vs

Joint Director Consolidation, Baghpat and others

RESPONDENT

Date of Decision : 10-08-2010

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48

Citation : (2010) 08 AHC CK 0355

Hon'ble Judges : Vikram Nath, J

Final Decision : Dismissed

Judgement

Vikram Nath, J.—Heard learned Counsel for the petitioner, learned Standing Counsel for respondent No. 1, Sri Anuj Kumar Advocate, representing respondent No. 2 and Sri Ramesh Pundir, Advocate representing respondent No. 3.

2. The Deputy Director of Consolidation by the impugned order has allowed the revision filed by respondent No. 3 on the ground that the petitioner after the consolidation scheme had been finalized upto revisional stage and chaks had been duly allowed, filed objection under section 9 of the U.P. Consolidation of Holdings Acts to declare plot Nos. 2882, 2883, 2884 being abadi having construction over them as chak out i.e. out of consolidation proceedings. The Consolidation Officer and the Settlement Officer had passed order in favour of the petitioner. However, the Revisional Court was of the view that after Consolidation scheme has been finalized and at the initial stage no objection having been raised for keeping aforesaid chak out of consolidation proceedings the undertaking given by the petitioner at a belated stage was not in accordance with law and could not have been accepted. The Deputy Director accordingly directed that the order declaring aforementioned plots out of consolidation be quashed and valuation given to the said plots to remain intact.

3. In the opinion of the Court also the order passed by the Deputy Director is valid in law as the petitioner had actually misused the provisions by initially getting the value fixed for the said plots and subsequently obtaining a

declaration that the) shall remain out of consolidation.

4. Learned Counsel for the petitioner has sought to argue that respondent No. 3 could not have filed objection against to order passed by the Consolidation Authorities for keeping aforesaid chak out of consolidation proceedings, which were original holding of the petitioner and were duly allotted to him as respondent No, 3 has no interest in the said plots.

5. On the other hand learned Counsel for the respondent No. 3 has submitted that from the aforesaid plots certain area had been used for carving a chak road which was a common passage and petitioner by trying to get the said plots out of the consolidation was obstructing and depriving respondent No. 3 from using the chak road. Whatever be the case even otherwise the Court is of the view that the procedure adopted by the petitioner was not in accordance with law and contrary to the settled principle of the provisions under U.P. Consolidation of Holdings Act.

6. Petition lacks merit and it is accordingly dismissed.