
(2014) 08 AHC CK 0099
In the Allahabad High Court
Case No : C.M.W.P. No. 24986 of 2014

Surendra Kumar Rai

APPELLANT

Vs

Deputy Director of Consolidation

RESPONDENT

Date of Decision : 06-08-2014

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48(3), 9, 9B

Citation : (2015) 126 RD 346 : (2014) 125 RD 156

Hon'ble Judges : Anjani Kumar Mishra, J

Bench : Single Bench

Advocate : Arvind Srivastava and S.N. Rai, Advocate for the Appellant; Govind Krishna, Advocate for the Respondent

Judgement

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Anjani Kumar Mishra, J.—Heard Sri Arvind Srivastava, Counsel for the petitioner and Sri Govind Krishna, who has filed caveat on behalf the contesting respondent No. 3. This writ petition has been filed seeking writ of certiorari for quashing the order dated 29.3.2014 passed by the Deputy Director of Consolidation, Azamgarh (the DDC) in Reference No. 47 under section 48(3) of the U.P. Consolidation of Holdings Act (For short "the Act"). This reference was prepared for making good the deficiency in violation as regards the chak of the petitioner. The orders dated 19.3.1999 and 19.1.2000 passed by the Consolidation Officer, Azmagarh (the C.O.) have also been impugned.

2. The facts of the case briefly stated are that the publication under section 9 of the Act is for the village where the disputed land is situate was made on 30.6.1984. An objection was filed by the contesting respondent Rajendra Singh under section 9-B of the Act on 15.3.1996 praying that plot No. 122 be declared chak out. This objection was allowed by the order dated 26.9.1997 and 800 links of plot No. 122 was duly declared as chak out.

3. On 15.1.1998, the petitioner purchased plot No. 1 from Samaru by means of a

registered sale-deed. Subsequent to this purchase, the purchaser Surendra Kumar Rai (the petitioner) moved an application on 11.3.1998 alleging therein that there was double entry regarding plot No. 1 area 15 links which was liable to be expunged and the valuation thereof be allotted to him on plot No. 122. This prayer made by the petitioner was opposed by the contesting respondent on the ground that he is original holder of plot No. 122 which was valuable roadside land and was proposed in his chak.

4. The petitioner also filed a revision against the order of the CO dated 27.6.1997. The DDC vide order dated 27.3.2001 set aside the order dated 26.7.1997 and remanded the matter for decision afresh on the question whether 800 links of plot No. 122 was liable to be declared chak out or not.

5. Against this order of remand, a writ petition No. 13705 of 2001 has been filed before this Court and is pending consideration. Since it appeared that the decision in WP No. 13705 of 2001 would have a bearing upon the dispute involved in the writ petition, the record of that writ petition was summoned and is also before this Court and that has also been heard and is being decided by a separate order.

6. After considering the circumstances of the case, the DDC by the impugned order dated 29.3.2014 has rejected the reference made and has remanded the matter for a fresh reference being prepared with the direction that plot No. 1 be measured and in case any valuation is liable to be given to the petitioner, the same may be provided from Bachat Land. It is thus clear that reference in so far as it provided for allotting the deficient valuation on plot No. 122, the same has not been affirmed.

7. Sri Govind Krishna, Counsel for the contesting respondent has submitted that WP No. 13705 of 2001 has been filed by his client and the same pertains to plot No. 122 and the dispute involved therein is as to whether 800 links of this plot No. 122 is liable to be declared as chak out or not. An order declaring 800 links as chak out was passed on the application of his client vide order dated 27.8.1997. The petitioner in the instant writ petition purchased plot No. 1 by a registered sale-deed dated 15.1.1998. He can, therefore, have no concern with the order dated 27.8.1997 passed in favour of the contesting respondent which relates to plot No. 122. On the strength of these facts he has contended that the two writ petitions are wholly unconcerned with each other. The petitioner who has acquired land of plot No. 1 by means of the sale-deed executed in his favour in 1998, is trying to get 50 links of plot No. 122 included in his chak because it is admittedly valuable roadside land. The contesting respondent is not concerned with the dispute as to whether or not the petitioner is entitled to some valuation from Bachat land. Similarly the petitioner is not concerned with plot No. 122 till such time it is declared as Bachat. His right to claim chak of plot No. 122 can arise only thereafter and, he, therefore cannot contest or object to the application of the petitioner that 800 links of plot No. 122 be declared chak out.

8. In rebuttal Sri Arvind Srivastava has submitted that the contention of the learned Counsel for the respondent regarding locus of the petitioner have not been raised earlier. He has submitted that since he is tenure holder in the unit in question, he has right to challenge the order whereby 800 links of plot No. 122 were declared chak out because this order was patently illegal as the objection itself was highly belated having been raised after carving of chaks. The objection should have been raised at the time of publication under section 9 in 1984, but the same was filed in 1996 more than 12 years beyond time and orders were obtained thereon without notice to the concerned parties including the Gaon Sabha and therefore the order was rightly set aside and the matter remanded for fresh decision on the issue, which order of remand is under challenge in WP No. 13705 of 2001.

9. Upon consideration of rival submissions and upon perusal of the impugned order, I find no illegality in the same. The petitioner is not concerned with plot No. 122 which is admittedly the original holding of the contesting respondent who is the original holder thereof and who has applied for 800 links of this plot being declared chak out. The petitioner is, therefore, under the circumstances a stranger to that litigation. The petitioner at best is entitled to valuation equivalent to 50 links which is stated to be short as regards the chak which has been proposed to him in lieu of plot No. 1 which he has purchased by means of a registered sale-deed in 1998. Moreover, by the order impugned, the DDC has issued necessary directions in this regard. In the impugned order, it has been directed that the area of chak of the petitioner plot No. 1 be measured and in case there is some short fall the same may be provided and made good by allotment from land which has been left as Bachat. In view of the aforesaid discussion, it is clear that the petitioner is not aggrieved by the order impugned. His interest has been adequately taken care of by the impugned order and his grievance will be remedied as provided therein. Accordingly, I hold that the writ petition is misconceived and the same is liable to be dismissed and is hereby dismissed.