
(2009) 12 AHC CK 0139

In the Allahabad High Court

Case No : Writ Petition No. 837 (Cons.) of 2009

Surya Kumar

APPELLANT

Vs

Shiv Ram and others

RESPONDENT

Date of Decision : 24-12-2009

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 48

Citation : (2009) 12 AHC CK 0139

Hon'ble Judges : Rajes Kumar, J

Final Decision : Disposed Of

Judgement

Rajes Kumar, J.—Heard Sri S.K. Mehrotra, learned counsel for the petitioner, and Sri M.A. Siddiqui, learned counsel appearing on behalf of respondents no. 2 to 4. Learned Standing Counsel appears on behalf of respondents no. 5 and 6.

2. Learned counsel for the petitioner submits that against the order of the Settlement Officer the petitioner has filed Revisions No. 60 and 61 before the Deputy Director of Consolidation, Faizabad. In the said revisions 27.11.2009 was the date fixed. In the ordersheet dated 27.11.2009 it was shown that the argument of the revisionist was heard and Hausila Prasad was absent and he has been directed to file written submissions on 30.11.2009 and 1.12.2009 was fixed for judgment. After coming to know about the aforesaid order the petitioner filed an application on 27.11.2009 itself stating therein that the petitioner has not been heard whereas in the ordersheet it has been wrongly mentioned that the petitioner has been heard and Hausila Prasad was absent, while both Ram Newaj and Hausila Prasad had died and no body appeared when the case was called and, therefore, it was requested that some other date may be fixed for hearing.

3. Learned counsel for the petitioner submitted that the petitioner has moved the transfer application also before the District Dy. Director of Consolidation for transferring the case from the court of Sri J.P. Tewari, Dy. Director of Consolidation, Faizabad to some other competent court. He submitted that the Dy. Director of Consolidation, Faizabad, has passed the order dated 1.12.2009

and therein again wrong fact has been stated that on 27.11.2009 the revisionist, Hausila Prasad, along with his counsel appeared and they have been heard in detail and the heir of Ram Newaj, Surya Kumar was absent and on the aforesaid averment the revisional authority has decided the revision the dismissed the same. He submitted that the order of the revisional authority is patently illegal, in violation of the principles of natural justice, mala fide, and also without giving opportunity of hearing to the petitioner, inasmuch as the revision has been decided on stating wrong facts. In the circumstances, it is prayed that the impugned revisional order be set aside and the matter be remanded back to the revisional authority to decide the revisions afresh. He further submitted that on the facts and circumstances and in the interest of justice the revisions may be transferred to some other competent court having jurisdiction to decide the revisions.

4. Sri M.A. Siddiqui, learned counsel for the respondents, has no objection to the aforesaid submissions. He, however, submitted that since the matter is quite old, the revisional authority may be directed to decide the revisions expeditiously. I have perused the impugned order and the ordersheet. It appears that both Ram Newaj and Hausila Prasad had died. Their heirs have been substituted. In the circumstances, there was no occasion to hear Ram Newaj or Hausila Prasad. Therefore, in the ordersheet dated 27.11.2009 as well as in the impugned order dated 1.12.2009 wrong facts have been stated. It is apparent that the impugned order has been passed without giving opportunity of hearing to both the sides in violation of the principle of natural justice and, therefore, the impugned order is liable to be set aside and it is hereby set aside. On the facts and circumstances, I am also of the view that the present revisions may be transferred to some other competent court having jurisdiction to decide the revisions. Therefore, the District Dy. Director of Consolidation, Faizabad, is directed to transfer the revisions from the court of Sri J.P. Tewari, Deputy Director of Consolidation, Faizabad, to any other competent court having jurisdiction to decide the revisions within a period of one week from the date of presentation of a certified copy of this order. The revisional authority thereafter directed to decide the revisions, preferably within a period of six weeks, after giving opportunity of hearing. Sri J.P. Tewari, Dy. Director of Consolidation, is hereby warned to be careful while deciding the cases.

5. With the aforesaid observation the petition is disposed of finally.