
(2011) 02 UK CK 0085

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 114 of 2008

Teslim

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 19-02-2011

Acts Referred:

Citation : (2011) 02 UK CK 0085

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Verma, J.—Heard learned Counsel for the Petitioner and perused the record.

2. By means of this writ petition, the Petitioner has sought a writ in the nature of certiorari to quash the order dated 25-4-2007 (Annexure No. 5) passed by the Deputy Director of Consolidation/Collector Haridwar (for short the D.D.C.) in Restoration Application No. 15 of 2006-07 Taslim v. Yaqoob.

3. Briefly stated, the facts giving rise to the writ petition, are that the Petitioner filed restoration application in Revision No. 272 of 1998, Idrish and Ors. v. Yaqoob and Ors. on 24-2-2001 on the ground that the Petitioner-revisionist was not having the knowledge of ex parte order dated 8-4-1999 and the Petitioner came to know of the same only on 23-2-2001 at the time of measurement of plot.

4. The learned D.D.C. after perusal of the record came to the conclusion that the application has been entitled as restoration application, although the order was passed on merit after hearing both the counsel for the parties.

5. The revision was filed against the order of Settlement Officer Consolidation dated 13-6-1995, which was decided on 8-4-1999. The restoration application dated 24-2-2001 was dismissed in default on 4-6-2004. Thereafter, an application was moved by the Petitioner-revisionist on 18-6-2004. The same was also dismissed on 1-9-2005 in default. Again, an application was moved on

7-9-2005 to recall the order dated 1-9-2005. That too was dismissed on 30-11-2005 in default of the Petitioner. Thereafter again on 7-12-2005, the Petitioner/revisionist moved an application to recall the order dated 30-11-2005.

6. The learned D.D.C. dismissed the application on the ground that the consolidation court is not having jurisdiction to review/recall its own order, when the order is passed on merits.

7. I have gone through the entire material placed on record.

8. In view of the Full Bench judgment of the Allahabad High Court in the case of Smt. Shivraji and Ors. v. Dy. Director of Consolidation Allahabad and others, reported in 1997 (88) R.D., Page 562, I find that the D.D.C. has rightly held that the application, which was captioned as restoration application, was a review application and the consolidation authorities cannot review/recall their final orders. The only remedy available to the Petitioner was to assail the order, which was passed by the Assistant Director of Consolidation dated 8-4-1999 on merits, by filing a writ petition. The impugned order dated 25-4-2007 does not suffer from any manifest error of law or perversity. The writ petition being devoid of merit is liable to be dismissed outright at the threshold.

The writ petition is dismissed summarily.