

(2016) 07 AHC CK 0028
In the Allahabad High Court
Case No : Writ-B No. 30230 of 2016

Vashistha Narayan

APPELLANT

Vs

Dy. Director of Consolidation Ballia

RESPONDENT

Date of Decision : 15-07-2016

Acts Referred:

Citation : (2016) 132 RD 310

Hon'ble Judges : Ram Surat Ram (Maurya), J.

Bench : Single Bench

Advocate : Vineet Kumar Singh and Manoj Kumar Singh, H.N, Advocates, for the Appellant; C.S.C, Ashutosh Srivastava, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Ram Surat Ram (Maurya), J.—Heard Sri H.N. Singh, Senior Advocate, assisted by Sri Vineet Kumar Singh for the petitioners and Sri Ashutosh Srivastava, for respondents-2, 19, 71 and 72.

2. The writ petition has been filed against the order of Deputy Director of Consolidation dated 31.05.2016 passed in chak allotment proceeding under U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the Act).

3. Plots 31 (area 0.030 hectare), 153 (area 0.813 hectare), 160 (area 0.109 hectare), 161 (area 0.158 hectare), 161-m (area 0.130 hectare), 163 (area 0.211 hectare), 165 (area 0.089 hectare), 170 (area 0.289 hectare), 171 (area 0.320 hectare), 190 (area 0.296 hectare), 192 (area 0.243 hectare), 198 (area 0.310 hectare), 291/1 (area 0.131 hectare), 291/2 (area 0.003 hectare), 292/1 (area 0.019 hectare), 292/m (area 0.124 hectare) (total 16 plots area 1.466 hectare) were original holdings of Vashistha Narayan (petitioner-1) (chak-385), in which he was co-sharers along with other tenure holders. It has been stated that father of Vashistha Narayan purchased plot 382 (area 0.210 hectare) through sale deed dated 18.11.1988. But the petitioners have not filed any document to show actual area purchased in plot 382. According to the

respondents only an area of 16-17 Ares of plot 382 was purchased by father of petitioner-1. Admittedly, valuation of plot 382 was included in chak-385, from the stage of Assistant Consolidation Officer. Total valuation of original holdings (except plot 382) of petitioner-1 was 104.44 annas. Total valuation of 114.66 annas was allotted in chak-385, which shows that contention of the petitioners that an area of 0.210 hectare in plot 382 was purchased, is incorrect. Assistant Consolidation Officer proposed three chaks to petitioner-1, i.e. first chak was proposed on plots 382 etc. of the area 0.660 hectare, second chak was proposed on plots 153 etc. of the area 0.829 hectare and third chak was proposed on plot 292/1 (area 0.061 hectare). Vashistha Narayan and Smt. Shanti Devi (the petitioners) (chak-387) were joint owners of plot 179 (area 0.806 hectare). They were proposed a single chak on plots 153 etc. (area 0.827 hectare). The petitioners were satisfied with their proposed chaks and did not file any objection under Section 20 of the Act.

4. Santosh Kumar and others (chak-435) filed an objection (registered as case No. 135) under Section 20 of the Act and Jai Nath and others (chak-435) filed an objection (registered as case No. 143) under Section 20 of the Act, for deleting first chak of petitioner-1 on plots 382 etc. Consolidation Officer, by separate orders dated 31.01.2015 dismissed these objections. In other objections (Case Nos. 123 and 124) of Prem Narian and others, Consolidation Officer by order dated 31.01.2015 modified second chak of petitioner-1 but that order has been set aside by order of Settlement Officer Consolidation dated 25.04.2015 passed in Appeal No. 421 of 2014-15 filed by Vashistha Narayan.

5. Santosh Kumar and others (chak-435) filed an appeal (registered as Appeal No. 382 of 2014-15), Jai Nath and others (chak-435) filed an appeal (registered as Appeal No. 371 of 2014-15). Three other appeals were also filed (registered as Appeal Nos. 372, 373 and 377 of 2014-15), from the order of Consolidation Officer of the village. The appeals were consolidated and heard by Settlement Officer Consolidation, who by order dated 25.04.2015 dismissed the appeals.

6. Nine revisions (registered as Revision Nos. 725/835, 729/839, 731/841, 733/843, 734/844, 751/861, 853/972, 860/979 and 1005), were filed in chak allotment matters of village Narhi. These revisions were consolidated and heard by Deputy Director of Consolidation, who by order dated 31.05.2016, partly allowed these revisions. Due to which plot 378/2 (area 0.199 hectare) and 381/2 (area 0.131 hectare) (total area of 0.330 hectare) were deleted from first chak of chak-385 and its valuation has been added in second chak on plot 153 etc. Location of second chak of chak-385 and 387 of the petitioners were also changed at the same place. Hence this writ petition has been filed.

7. The counsel for the petitioners submitted that chak-385 of Vashistha Narayan (petitioner-1) was allotted substantially on original holdings. Chak-387 was allotted in vicinity of original holdings. The petitioners were satisfied with their chaks and did not file any objection. Consolidation Officer, by orders dated 31.01.2015 found that chak of Santosh Kumar and others and Jai Nath and

others was not their original holdings. Petitioner-1 was allotted an area of 0.660 hectare on plot 382 etc. By the order of Deputy Director of Consolidation, an area of 0.330 hectare has been taken from this chak as such his chak at this place has become in narrow strip and not suitable for cultivation. Deputy Director of Consolidation has changed the location of second chak of chak-385 and chak -387. Due to which the petitioners have been deprived from access of chak road in one side and chak nali. Thus material prejudice has been caused to the petitioners. Order of Deputy Director of Consolidation was a cryptic order. It does not assign any reason. He has not inspected the spot and changed the chaks of the petitioners without any reason. Order of respondent-1 is illegal and liable to be set aside.

8. I have considered the arguments of the counsel for the parties and examined the record. Santosh Kumar and others (chak-435) have stated that plots 378/2 (area 0.357 hectare), 378/3 (area 0.006 hectare), 381/2 (area 0.096 hectare), 381/3 (area 0.103 hectare) and 282 (area 0.210 hectare) were their original holdings. These plot situates by side of Fefna-Chelhaiya PWD road. Although father of petitioner-1 purchased an area of 16-17 Ares in plot 382 but he has been proposed a chak of an area of 0.660 hectare. It has not been denied that plots 378, 381 and 382 were roadside land. The petitioners have stated that father of Vashistha Narayan purchased plot 382 (area 0.210 hectare) through sale deed dated 18.11.1988. But the petitioners have not filed any document to show actual area purchased in plot 382. Admittedly valuation of plot 382 was included in chak-385, from the stage of Assistant Consolidation Officer. Total valuation of original holdings (except plot 382) of petitioner-1 was 104.44 annas. Total valuation of 114.66 annas was allotted in chak-385, which shows that contention of the petitioners that an area of 0.210 hectare in plot 382 was purchased is incorrect and contention of the respondents that an area of 16-17 Ares of plot 382 was purchased appears to be correct. After order of Deputy Director of Consolidation an area of 0.330 hectare still remains with petitioner on plot 382. Thus still he has obtained more area on roadside land than his original holdings as such no prejudice has been caused to him. An area of 0.330 hectare can not be in narrow strip.

9. So far as other arguments that Deputy Director of Consolidation has changed the location of second chak of chak-385 and chak -387. Due to which the petitioners have been deprived from access of chak road in one side and chak nali, are concerned, a perusal of chak map shows that earlier in west of chak-385, there was Sector road and in north and south there were chak roads. In north and south of chak-387 there were chak roads. Now after order of Deputy Director of Consolidation, they were deprived from access of chak road in south side. These chaks have still access of Sector road and chak road. There is nothing to show that they have been deprived from access of chak nali. On these grounds also order of Deputy Director of Consolidation is not liable to be set aside.

10. In view of the aforesaid discussions, writ petition has no merit and is dismissed.