

(2002) 01 SC CK 0060
In the Supreme Court Of India
Case No : Civil Appeal 1662 of 1991

Vikram Singh Junior High School	Vs	APPELLANT
The District Magistrate (Fin and Rev) and Others		RESPONDENT

Date of Decision : 24-01-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 148
Uttar Pradesh Land Revenue Act, 1901 — Section 218

Citation : (2002) 6 ALT 31 : (2002) 2 JT 175 : (2002) 9 SCC 509

Hon'ble Judges : V. N. Khare, J; Ashok Bhan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. It is not disputed that the land measuring 17 acres and 18 dismals situated at village Prithvipur, Mazra Khamaria, tehsil Chhibraman, district Farrukhabad vests in gram sabha, Khubaraipur. On 25.8.73, the land management committee, Khubaraipur (hereinafter referred to as 'land management committee') by means of a resolution dated 5.2.1973 proposed to let out the said plot of land in favour of the appellant, herein subject to the approval by the assistant collector, first class, in charge of the sub-division. Accordingly, the appellant submitted an application before the sub-divisional officer (in short 'SDO') for according approval for grant of lease by the gram sabha in respect to the aforesaid plot in its favour. The SDO, instead of granting approval to the proposed lease by the gram sabha, passed an order dated 4.2.1975 directing for mutation of the name of the appellant in the revenue record as lessee. The said order of the SDO. was challenged by means of a revision petition u/s 218 of the U.P. Land Revenue Act and the same was referred by the additional commissioner to the board of revenue. The board of revenue, after hearing the parties found that the order of S.D.O. was erroneous as, on the application for grant of approval to the proposed lease in favour of the appellant, he could not have directed for mutation of the name of the appellant in the revenue record. Consequently, the revision petition

was allowed and the mutation of the name of the appellant in the revenue record was directed to be expunged. The appellant, thereafter, filed a writ petition before the High Court under Article 226 of the Constitution, but the same was dismissed. In between time, the village, where the plot in dispute is situate was brought under consolidation of holding operations. During the consolidation proceedings, the gram sabha treating the land as a vacant land allotted the same in favour of respondent Nos. 6 to 18. However, in the consolidation proceedings, the name of the appellant came to be recorded in respect of the plot in dispute in pursuance of earlier entries and chaks were directed to be carved out in the name of the appellant. When said fact came to the notice of the collector, he, by order dated 6.4.91. directed for deletion of the name of the appellant from the consolidation record and substituting the name of respondent Nos. 6 to 18 in its place. It is at this stage, the appellant filed the second writ petition challenging the order of the collector. But the said writ petition was dismissed by the High Court and it is against the said judgment and order of the High Court, the appellant has filed this appeal by way of special leave petition.

2. Learned counsel appearing for appellant urged that once the name of the appellant came to be recorded in the consolidation record and further chaks were to be carved out in the consolidation record during the consolidation proceedings, it was not open to the collector to pass an order for expunging the name of the appellant and substituting the name of respondent Nos. 6 to 18 and therefore, the impugned order of the collector was wholly illegal and without jurisdiction. We do not find any merit in the argument- It is not disputed that the land is vested in the gram sabha. It is also not disputed that no lease with the approval of the assistant collector has been executed by the gram sabha in favour of the appellant. It is also not in dispute that earlier, name of the appellant recorded in the revenue record was directed to be expunged by the order of the board of revenue which was affirmed by the High Court in the writ petition. Under such circumstances, the order passed by the collector dated 6.4.1991 by which the name of the appellant was directed to be expunged from the revenue record in respect of the plot in dispute, was only a consequential order for correcting the wrong entry continuing in the revenue record.

3. The matter may also be examined from another angle. The appellant was neither a bhumidhar sirdar nor asami of the land in dispute. The alleged resolution dated 25.8.1973 had no legal sanctity in the absence of an approval of the assistant collector, first class, in charge of the sub-division and, therefore, the resolution did not convey any title, whatsoever, in favour of the appellant. The entry in the revenue record must have a legal basis. Further there was no adjudication of dispute as regard continuance of the wrong entry. The appellant could not have claimed any title over the land in dispute merely on the basis of wrong entry which continued in its favour through negligence or failure of the revenue officer or the consolidation officer to correct the record, in pursuance of the order of the board of revenue which had attained finality. In the consolidation proceedings, the collector is also the district deputy director of consolidation

under the U.P. Consolidation of Holding Act and is authorised to correct any wrong entry continued in the consolidation record in that capacity in the exercise of power u/s 48 of the U.P. Consolidation of Holdings Act. Merely because a wrong provision was quoted by the collector for exercising his power while deleting the name of the appellant from the revenue record would not invalidate the order if it is shown that such an order could be passed under other provisions of the Act viz. u/s 48 of the U.P. Consolidation of Holdings Act. In that view of the matter, we do not find any infirmity in the order passed by the collector.

4. For the aforesaid reasons, we are satisfied that there is no merit in this appeal. The appeal is accordingly dismissed. There shall be no order as to costs.