
(2011) 11 AHC CK 0207

In the Allahabad High Court

Case No : Civil Miscellaneous Modification Application No. 324259 of 2011 in
Writ B No. 61160 of 2011

Virendra Singh and Another

APPELLANT

Vs

D.D.C. And Others

RESPONDENT

Date of Decision : 08-11-2011

Acts Referred:

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 23, 48(3)

Citation : (2011) 11 AHC CK 0207

Hon'ble Judges : Krishna Murari, J

Bench : Single Bench

Judgement

Hon'ble Krishna Murari, J.—This is an application seeking modification of the order dated 21.10.2011. It is alleged that an order directing the parties to maintain status-quo with respect to nature and possession over the land in dispute though was dictated in open Court but has not been transcribed.

2. A perusal of shorthand book of the Secretary confirms that stay order was dictated in open Court. Sri N.C.Rajvanshi, learned Senior Advocate appearing for the respondents also does not dispute the fact. It appears due to inadvertent mistake the part of the order could not be transcribed.

3. In view of above, the modification application is allowed and the order dated 21.10.2011 is recalled and the following fresh order is being passed :

4. Heard Shri S.K. Tyagi, learned counsel for the petitioners and Shri N.C. Rajvanshi, learned Senior Counsel assisted by Shri Chandra Bhan Gupta, who has accepted notices on behalf of respondent no. 4.

5. It is contended that the Deputy Director of Consolidation has wrongly and illegally rejected the stay application filed by the petitioner along with the revision mainly on the ground that provisional consolidation scheme has been confirmed u/s 23 of the Consolidation of Holdings Act and no interim order of any kind either staying the demarcation of the provisional consolidation scheme or

staying delivery of possession at the behest of some of the tenure holders in revision u/s 48(3) of the Act., can be passed It is further pointed out that while passing the stay order, reliance has been placed on the judgment of the learned Single Judge in the case of Lal Ji Vs. Deputy Director of Consolidation, Varansi & Ors., 2001 (92) RD 742, without considering the Division Bench judgment of this Court in the case of Kishan Singh Vs. Deputy Director of Consolidation, 1965 RD 298 taking a contrary view. It is also submitted that the view of the Division Bench will prevail over the order of the learned Single Judge.

6. Prima facie, there appears to be force in the submission and the matter requires scrutiny.

7. Shri N.C. Rajvanshi appearing for respondent no. 4 prays for and is allowed three weeks" time to file counter affidavit. Petitioner will have one week thereafter for filing rejoinder affidavit.

8. Issue notice to respondent nos. 5 to 29, who may also file counter affidavit. Petitioner shall take steps for service of notice on the respondents by 11th November, 2011. Office shall issue notices returnable within last week of November, 2011.

9. List in the week commencing 12th December, 2011 along with Writ Petition No. 39190 of 2011.

10. Till the next date of listing, parties to the writ petition shall maintain status-quo with respect to nature and possession over the land in dispute as it exists today.