

(2002) 01 AHC CK 0096

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 42936 of 2002

Bashisth Singh and Ors.

APPELLANT

Vs

Deputy Director of
Consolidation, Mirzapur & Ors.

RESPONDENT

Date of Decision: Jan. 10, 2002

Acts Referred:

- Limitation Act, 1963 - Section 5
- Uttar Pradesh Consolidation of Holdings Act, 1953 - Section 9

Hon'ble Judges: S.N.Srivastava, J

Final Decision: Dismissed

Judgement

S.N. Srivastava, J.

The short question that boils down for consideration in the present petition instituted by the petitioner Consolidation, Mirzapur, is whether the Deputy Director, Consolidation, Mirzapur was justified in condoning the delay by means of the impugned judgment and order dated 472002.

2. Background of the controversy in its essential details is that opposite parties 2 to 6 had filed highly belated joint objection under Section 9 of the U.P.C.H. Act with accompanying prayer that Plots 56 and 70 be excluded from consolidation operation under way in the village. The petitioner preferred counter objection to the aforesaid objection on the ground that contesting opposite parties had awareness of the proceedings and the objections were liable to be rejected. The matter ended up in decision by the Consolidation Officer leaning in favour of the petitioner. The matter escalated into filing of appeal before the Settlement Officer, Consolidation and thereafter, a revision came to be preferred before the Deputy Director of Consolidation which culminated in decision leaning against the petitioner and this has led to institution of the present petition in this Court.

3. Sri Ram Niwas Singh, learned Counsel representing the petitioners canvassed his submissions urging that the Deputy Director, Consolidation erred in condoning the delay occasioned in filing of objection inasmuch as grounds listed for condonation of delay in filing objections under Section 9 of the Act do not constitute a valid case for condonation of delay and the Deputy Director Consolidation has exceeded the brief of his discretion in reversing the finding of the Consolidation Officer without meeting out the reason. In aid of his submission, learned Counsel placed credence on the cases in *P.K. Ramchandran v. State of Kerala and others*, 1998 ACJ (SC) 119 and *Binod Bihari Singh v. Union of India*, 1993 ACJ (SC) 772. In opposition Sri R.S. Maurya representing the opposite parties contended that the contesting opposite parties spelt out cogent and convincing grounds explaining delay and the Deputy Director Consolidation rightly believed the case after reckoning with the grounds urged by the opposite parties and after satisfying himself about the sufficiency of the cause for condonation of delay. He further canvassed that no prejudice has been occasioned to the petitioners in that parties would avail of the opportunity of hearing to contest the case before the Consolidation Officer on its merit. Ultimately, the learned Counsel submitted that no case for interference is made and the petition is liable to be dismissed in limine.

4. I have heard learned Counsel for the parties and considered their respective submissions.

5. It would transpire from a perusal of the judgment/order of the Consolidation Officer that it had turned down the objection mainly on the ground that day to day delay was not explained and that some of the plots had been earmarked for public purpose and contesting opposite parties must be aware of it. I have also scanned the judgment of the Deputy Director Consolidation for any possible infirmity and in my view the Deputy Director Consolidation has rightly converged to the conclusion that the Consolidation Officer erred in dismissing the objection/application of the contesting opposite parties under Section 5 of the Limitation Act which according to the Deputy Director Consolidation was dealt with in a summary/cursory manner without delving into the merits. It would also transpire from a perusal of the judgment of the Deputy Director Consolidation that he reckoned with the affidavits filed by both the parties at prolix length to the effect that contesting opposite parties were at the relevant time residing in different district and could not be deemed to have awareness about the publication of records under Section 9 of the Act pertaining to the village concerned. For his conclusion, he also held that contesting opposite parties were not apprised of the consolidating operation and that this was the causative factor for filing belated objection.

6. It is to be borne in mind that the object of the Act is to allot a compact area in lieu of scattered plots to tenure holders so that large scale cultivation may be possible with all its attendant advantage. Besides this, the other attendant advantages include reduction of boundary lines saving of land and by this reckoning number of

boundary disputes is reduced. There is also saving of time in the management of fields inasmuch as the farmer is saved from travelling from field to field which may be at considerable distances from each other. The preamble of the Act also reads that "an Act to provide for the consolidation of agricultural holdings in U.P. for the development of agriculture." These advantages resulting from consolidation of holdings are intended to encourage the development of agriculture, large production of foodgrains. It is worthy of notice that when the State is satisfied that a district or apart thereof requires consolidation it may issue a notification and parties are necessarily involved to have their rights adjudicated upon. In the above conspectus, it would thus appear that if any litigation erupts, it is born of the purpose of the Act which is to encourage the development of agriculture and too rigid of a view in the matter of limitation is not the underlying intendment of the Act. It is also to be borne in mind that consolidation proceedings waded their way through various stages in the hierarichal order and by this reckoning if a person who was in a district other than a district in which consolidation operation was under way and he absented himself on the assurances of his relatives that his rights would be protected in consolidation proceedings and subsequently, it transpires to him that his rights were not taken care of by his relatives, he cannot be shooed away taking a rigid view of the ground that he did not file objection when the records were published in the Unit. In the present case, one of the grounds stated for condonation of delay being that the contesting opposite parties were away to different district and his interest and rights were not taken care of by his relations living there, no interference is called for with the order of the Deputy Director Consolidation upon regard being had that he has recorded cogent and convincing reasons to converge to the conclusions. I am also inclined not to interfere with the judgment on consideration that parties would have full opportunity of hearing to contest the case on merits before the Consolidation Officer.

7. Coming to the case cited by the learned Counsel for the petitioners, so far as ratio flowing from Binod Bihari Singh (supra) is concerned, it is unavailing to the petitioners in that it is a case pertaining to Arbitration Act. In this case, the High Court dismissed the application under Section 5 of the Indian Limitation Act on the ground that no sufficient cause was shown and the apex Court lent affirmance to the view of the High Court. Yet another case is the case of P.K. Ramchandran (supra). This case too pertained to Arbitration Act and is of no assistance to the petitioners inasmuch as this case had its genesis in facts which are different from the facts of the present case and cannot be called in aid for application.

8. In the above conspectus, the judgment of Deputy Director Consolidation does not wear the taint of any illegality or material irregularity or the error apparent on the face of record and the writ petition is liable to be dismissed.

9. In the result, the petition fails and is dismissed. Parties shall bear their respective costs.