

(2014) 08 AHC CK 0146
Allahabad High Court
Case No: Writ-B No. 41006 of 2014

Rukhsana Jafar

APPELLANT

Vs

D.D.C.

RESPONDENT

Date of Decision: Aug. 8, 2014

Acts Referred:

- Uttar Pradesh Consolidation of Holdings Act, 1953 - Section 9A(2)

Citation: (2014) 125 RD 10

Hon'ble Judges: Anjani Kumar Mishra, J

Bench: Single Bench

Advocate: Prabhakar Singh, Advocate for the Appellant; Pulak Ganguli, Advocate for the Respondent

Judgement

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Anjani Kumar Mishra, J.

Supplementary affidavit filed today is taken on record. Heard Shri Prabhakar Singh, learned Counsel for the petitioner and Shri Pulak Ganguli, who has filed caveat on behalf of respondent No. 3.

2. The petitioner is purchaser from respondent No. 6 who in turn had purchased the property from respondent No. 5. All these transfers are transfers pendente lite. Since the respondents 5 and 6 have admittedly executed a sale deed of the property in question, there appears no legal necessity to issue notices to them, especially, in view of the order proposed to be passed.

3. The writ petition arises out of proceedings under section 9-A(2) of the U.P. Consolidation of Holdings Act. In the basic year property in dispute was recorded in the name of Jahoor and Mansoor while Smt. Ramshree, respondent No. 5 was

recorded under clause 9.

4. On the start of consolidation operations, an objection was filed by the respondent No. 5 claiming title on the basis of adverse possession. This objection was allowed by the Consolidation Officer. The order of the Consolidation Officer was challenged by means of appeal filed by the respondent Nos. 3 and 4. The respondent No. 3 is also a transferee pendente lite from the recorded tenure holders of the property in dispute.

5. The Settlement Officer, Consolidation by his order dated 8.8.2013 remanded the matter back to the Consolidation Officer to decide the matter afresh after taking evidence of the parties and after hearing them. This order of remand has been affirmed by the Deputy Director of Consolidation by the impugned order.

6. It has been contended by the learned Counsel for the petitioner that entire evidence of the parties had been led during the pendency of the proceedings before the Consolidation Officer. This contention is also clear from the perusal of the order of the Consolidation Officer itself. He, therefore, submits that the Settlement Officer, Consolidation as also the Deputy Director of Consolidation should have appreciated the evidence and decided the case thereupon and that especially the Settlement Officer, Consolidation has failed to exercise the jurisdiction vested in him and has unnecessarily remanded the matter to the Consolidation Officer.

7. Shri Pulak Ganguli has tried to justify the order impugned but has ultimately conceded that the impugned order be set aside and matter is remanded back for afresh decision on merits.

8. Accordingly, I set aside the orders dated 5.5.2014 and 8.8.2013 and remand the matter to the Settlement Officer, Consolidation to pass fresh orders after hearing all concerned parties on the basis of the evidence on record. Since the matter is very old one, it is further provided that this exercise will be completed as expeditiously as possible preferably within a period of three months from the date of production of a certified copy of this order before him.

9. It is further provided that the Settlement Officer, Consolidation shall not grant more than three adjournments apiece to each of the parties. Any adjournment beyond three as stipulated above shall be granted only subject to costs which shall not be less than Rs. 1,000/- for each adjournment. In case, necessity arises the Settlement Officer, Consolidation may also proceed to hear the matter on a day-to-day basis so as to deliver judgment within the period specified above. Accordingly and subject to directions as aforesaid, this writ petition is allowed.