

Radhey Shyam Chauhan Vs Deputy Director of Consolidation, Ghazipur

Court: ALLAHABAD HIGH COURT

Date of Decision: Sept. 26, 2016

Acts Referred: Constitution of India, 1950 - Article 226

Citation: (2016) 133 RD 687

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

Bench: Single Bench

Advocate: Siddhartha Varma and Girja Shanker Mishra, Advocates, for the Petitioner; C.S.C., Ashok Kumar and Manoj Kumar Yadav, Advocates, for the Respondents

Final Decision: Dismissed

Judgement

Ram Surat Ram (Maurya), J - Heard Sri Siddhartha Varma for the petitioner and Sri Ashok Kumar for the respondents.

2. The writ petition has been filed against the order of Deputy Director of Consolidation dated 13.6.2016 passed in chak allotment proceeding

under U.P. Consolidation of Holdings Act, 1953(hereinafter referred to as "the Act")

3. The dispute between the parties is in respect of allotment of chak on plot no.34. Jiutbandhan(now represented by the petitioner) and Raja Ram

were cosharers in plot no.34. The total area of plot no.34 was 2-5-3 bigha out of which plot no.34/1, area 1-15-6 bigha was included in

consolidation operation while plot nos. 34/2, area 0-1-0 bigha, 34/3, area 0-7-17 bigha and 34/4, area 0-1-0 bigha were out of consolidation in

which houses of the parties were existing and in the eastern side and there was a temple also. Plot is a roadside land and has commercial value.

4. Jiutbandhan (chak holder no.53) was allotted an area of 0-16-1 bigha of plot no.34/1 in his chak from the stage of Assistant Consolidation

Officer. Raja Ram (respondent-2 and chak holder No.129), was allotted an area of 0- 12-15 bigha of plot no.34/1 and Sadari (respondent-3 and

chak holder No.177) was also allotted an uran chak of an area 0-1-10 bigha of plot no.34/1 on roadside land. Raja Ram filed an objection against

the proposed chak and claimed that as he was not given chak giving frontage on the road side in proportion to his share on plot no.34/1 as such he

be allotted a chak giving frontage on the road side of the area of his share in the plot no.34/1.Consolidation Officer by order dated 29.3.1988

dismissed the objection. Thereafter Jiutbandhan as well as Raja Ram both filed revisions before Deputy Director of Consolidation. In the revision

of Jiutbandhan he had prayed for deletion of chak of Sadari from plot no.34, while in the revision of Raja Ram he had claimed for deletion of chak

of Sadari on plot no.34 as well as for allotting chak giving frontage to him on the road side on plot no.34 to the extent of his share in it. Both the

revisions were consolidated and decided by Deputy Director of Consolidation by order dated 30.4.1994. The revisions were allowed and chak of

Sadari was directed to be deleted from plot no.34 and Raja Ram was allotted chak on it. However, the amendment chart attached to the order of

Deputy Director of Consolidation was not prepared according to the finding recorded in the order. Therefore, Raja Ram filed a writ petition before

this Court being Writ B No.15887 of 2001. The writ petition was disposed of by this Court by order dated 27.4.2001 giving liberty to Raja Ram

to file an application before Deputy Director of Consolidation for correcting the amendment chart. In pursuance thereof Raja Ram filed an

application before Deputy Director of Consolidation. Deputy Director of Consolidation by the impugned order has allotted an area of 0-6-0 bigha

to Raja Ram on plot no.34 giving frontage on the road side in the western side of this plot taking equivalent area of plot no.34 from his chak in

eastern side and it was allotted in the chak of the petitioner. Hence this writ petition has been filed.

5. I have considered the arguments of the counsel for the parties.

6. The counsel for the petitioner submits that chak revision was finally decided by Deputy Director of Consolidation by his order dated 30.4.1994

and none of the parties has challenged this order. The only grievance of Raja Ram was that amendment chart attached to the aforesaid order was

not correctly prepared inasmuch as the chak of Sadari was not deleted from plot no.34 but Sadari was again allotted chak on plot no.34 and Raja

Ram was not given his chak on plot no.34. This Court in order dated 27.4.2001 gave liberty to Raja Ram to file correction application for

correcting amendment chart but while correcting the amendment chart Deputy Director of Consolidation has passed the impugned order for

allotment which amounts to reviewing of his previous order dated 30.4.1994 to which he had no jurisdiction under the Act.

7. I have considered the arguments of the counsel for the parties.

8. In the order dated 30.4.1994 Deputy Director of Consolidation found that plot no.34 is a road side land having commercial value being a place

adjoining to bazar. On this finding chak of Sadari on plot no.34 was directed to be deleted. Further, Deputy Director of Consolidation held that the

revisionists were entitled to their chaks on plot no.34 which was having commercial value. In view of this finding it cannot be said that no relief was

granted to Raja Ram except for deleting the chak of Sadari. At the time of hearing these revisions, Deputy Director of Consolidation obtained a

report of spot inspection from Assistant Consolidation Officer. A perusal of the spot inspection report shows that on the road side in width of 33

metre, Hanuman Temple was existing in eastern side. In the west of Hanuman Temple in the width of 21.5 metres, house of Raja Ram was existing

and thereafter in west of it in the width of 18 metres, house of Jiutbandhan was existing. Thereafter Jiutbandhan was allotted chak giving frontage

on roadside to the extent of 52 metres and in the extreme west there was a triangular shape of land of plot no.34 having width of 31.5 metres.

Thus the land of commercial value of plot no.34 in possession of Raja Ram was to the extent of 21.5 metres + 52 metres + 31.5 metres of the

total area of the land, some land was in use for nonagricultural purpose. By the impugned order Deputy Director of Consolidation has allotted this

0-6-1 bigha to Raja Ram in plot no.34 and it is stated that petitioner is still having about 0-16-1 bigha in his chak. Thus, the chak of the petitioner

is according to his share and adjoining to his house on the road side. By allotting 6 biswa and 01 dhur land to Raja Ram equity to some extent has

been adjusted between the parties. Since justice has been done between the parties as such in view of the law laid down by Supreme Court in <Ä>

<Ä>Roshan Deen v. Preeti Lal, AIR 2002 SC 33

dismissed.