

Jamuna Prasad vs D.D.C.And Others. on 31 January, 2025

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Bench: Jaspreet Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:6633

Reserved

Case :- WRIT - B No. - 3349 of 1987

Petitioner :- Jamuna Prasad

Respondent :- D.D.C.And Others.

Counsel for Petitioner :- Rakesh Kumar Srivastava,H.S Sahaio,U S Sahai,Vivek Tripathi

Counsel for Respondent :- H.S. Sahai,A.S. Chand,Aditya Kumar Tiwari,CSC,D. Gupta,P.V. Ch

Hon'ble Jaspreet Singh,J.

1. Heard Shri Shashwat Srivastava, Advocate appearing under the authority of Shri U. S. Sahai, learned counsel for the petitioner and Shri Aditya Kumar Tiwari, learned counsel for the private respondent.

2. The petitioners have assailed the impugned orders dated 03.05.1980 passed by the Deputy Director of Consolidation, Faizabad rejecting the revision of the petitioners whereby the order passed by the Settlement Officer of Consolidation dated 04.08.1986 was affirmed and in turn the order dated 19.03.1977 passed by the Consolidation Officer has been upheld.

3. The matter in question relates to chak allotment. The petitioners had made the following demands:- (i) Plots no.4 and 28 were demanded by the petitioners to be allotted but instead they

were given rights on Plots No.142 and 145 despite Plot No.4 was the largest plot and also had a tube-well which was the source of irrigation for the petitioners; (ii) some part of Plots No.4, 10 and 14 was left for abadi. However, later, abadi was reserved as Plot No.15. The petitioners also wanted that the valuation as made in respect of Plots No.141, 142 and 145 may be taken from the petitioners and rather they may be accommodated with the said valuation in Plots No.4 and 28 and if there was any surplus then the remaining be given on Plot No.24; (iii) it was also stated by the petitioners that a chak road has been carved from part of Plots No.4 and 28, the same may be removed and the chak road be taken out from the other plots; (iv) the petitioners also objected that the chak which was given to Bhagauti Deen on Plots No.75 and 6, the same was also not appropriate and since the Plot No.75 which belonged to the petitioner and was initially kept out from consolidation, it should be allotted to the petitioners.

4. The aforesaid demand of the petitioners did not find favour with the Consolidation Officer who vide his order dated 19.03.1977 rejected the same. The same demand were further raised in appeal before the Settlement Officer of Consolidation who also dismissed the appeal vide order dated 04.08.1986 and the same also was affirmed by the Deputy Director of Consolidation by means of order dated 03.05.1980.

5. Shri Shashwat Srivastava, learned counsel for the petitioners submits that the petitioners were large tenure holders and their share on Plot No.4 was quite substantial. The said plot also had the source of irrigation and it was part of their Mool Gata, however, by not granting the adequate share in Plot No.4 as well as not removing the chak road from Plots No.4 and 28 which bifurcated the plots of the petitioners was also cumbersome and bad in the eyes of law.

6. It was further submitted that the petitioners ancestral house was located on Plot No.8 whereas Plots No.6 and 75 also belonged to the petitioners hence they should have been adjusted accommodated as the same was adjacent to the ancestral house rather by giving it to Manautideen, the three consolidation authorities have committed an error.

7. It is urged that though the specific objections were raised before the Consolidation Officer but it was not considered and the Consolidation Officer by a cursory order rejected the objections.

8. It is further submitted that even in the memo of appeal filed before the Settlement Officer of Consolidation, the objections were raised but unfortunately it was also not dealt with by Settlement Officer of Consolidation who dismissed the appeal.

9. This matter was further escalated before the Deputy Director of Consolidation but unfortunately the same was dismissed requiring the interference of this Court. It is thus urged that the orders are bad in the eyes of law and deserves to be set aside after allowing the writ petition.

10. Shri Aditya Kumar Tiwari, learned counsel appearing for the private respondent submits that the writ petition is concluded by concurrent findings of fact and as such it does not require any interference of this Court.

11. It is further submitted that the petitioners could not indicate that they had their source of irrigation on Plot No.4, merely because the petitioners wanted to be accommodated on Plot No.4 which was a large plot cannot be given at the asking of the petitioners.

12. It is further submitted that all the three courts have considered the demands/objections of the petitioners regarding the chak allotment and after making spot inspection the chaks have been allotted, as far as possible by accommodating the petitioners on their Mool Gata and this fact is not disputed, hence there has been substantial compliance of Section 19 of the U.P. C. H. Act, 1953 and as such it cannot be said that the petitioners have been deprived of any valuable rights or that they have been granted the plots which is not in accordance with the provisions of Section 19 of the Act, 1953 and as such the petition deserves to be dismissed.

13. The Court has heard the learned counsel for the parties and also perused the material on record.

14. The record indicates that the petitioners were given and allotted three chaks (i) comprising of Plot No.141; (ii) comprising of Plots No.4 and 5; and (iii) chak comprising of Plots No.142 and 145.

15. The record further indicates that in so far as the first demand regarding allotment of Plot No.4 is concerned, this Court finds that the main ground raised by the petitioners is that their source of irrigation i.e. tub-well is located on Plot No.4. This demand did not find favour with the Consolidation Authorities and moreover even before this Court in writ proceedings which have been pending since 1987, the petitioners did not file C.H. Form 2-A to indicate that there was any tube-well located on the Plot No.4 as claimed by the petitioners. In absence of substantiating the fact that the petitioners had their source of irrigation on Plot No.4. The contention raised by the learned counsel for the petitioners cannot be appreciated especially when it has already been turned down by the three consolidation courts and there is nothing to substantiate this fact even in this petition.

16. As far as the removal of the chak road from Plots No.4 and 28 is concerned, it would be seen that earlier there were two chak roads, one which connected the abadi on the northern side and moving towards Gram Madauli and the second chak road which was also adjacent to the abadi on southern side which moves from Plot No.28 in western direction towards the main road. This was found to be essential and in the large public interest and for the said reason it did not find favour with the Consolidation Authorities.

17. It will also be relevant to notice that the consolidation operation in a village are such that some inconvenience is bound to occur. However, the principles which have been initiated in Section 19 of the U.P. C.H. Act, 1953 and the corresponding rule framed under the U.P. C H Rule 1954 mandates that endeavour must be made to minimize such inconvenience and larger public good is also to be balanced against the private rights of the parties.

18. A specific query was put to the counsel for the petitioners regarding the fact as to how the petitioners have been prejudiced whereas there are clear findings of the Consolidation Authorities that both the chak roads are important and are in large public interest, Shri Srivastava after making brave attempt to justify their rights further submitted that he does not wish to press this particular

demand.

19. Coming to the remaining two demands which were raised by the petitioners since they are connected, hence they are being dealt with together. The Consolidation Authorities after having taken a complete holistic view had left some part of Plots No.4, 10 and 14 for abadi and the demand that the abadi be reserved on Plot No.15 whereas further demand of accommodating the petitioners on Plots no.4 and 28 including by giving him the benefit of valuation of his other Plots No.141, 142 and 145, in Plots No.4 and 28 if seen, it will reveal that it is not disputed that the Plots No.141, 142 and 145 inter alia are the Mool Gatas of the petitioners. The petitioners have already been accommodated on his Mool Gatas. The petitioners have also been granted rights on Plot No.28 and therefore it cannot be said that the petitioners have not been accommodated on his Mool Gatas. The Plots No.75 and 6 have been claimed by the petitioners as it is said to be adjacent to the ancestral house of the petitioners.

20. Be that as it may the fact remain that the petitioners have been given a large share in Plot No.4 which is a big plot and he has also been accommodated in his other Mool Gatas and it is clear that the three chaks which have been allotted to the petitioners; (i) Plot No.141; (ii) combining Plots No.4 and 5; (iii) combining Plots No.142 and 145 and this would indicate that the petitioners have been accommodated by granting three chaks on his Mool Gatas and for the said purpose he cannot urge that there is any illegality in the allotment of chaks.

21. As noticed above, as far as possible a tenure holder is required to be adjusted on his Mool Gatas which has been done in the case of the petitioners. The demand for removal of chak road was not found in the interest of public at large and the demand for getting a larger share in Plots No.4 and 28 and further any valuation if left may be adjusted in Plot No.24 while by taking away Plots No.141, 142 and 145 also does not appear to be suffering from any legal error which may vitiate the decision of the Consolidation Authorities.

22. The findings recorded by the Settlement Officer of Consolidation as well as the Deputy Director of Consolidation who have dealt with the objections as raised by the petitioners by considering the overall impact and have also recorded findings which are based on proper appreciation of the material brought on record including by making a spot inspection and these findings of fact could not be demonstrated to be erroneous or against the settled legal principles which may persuade this Court to interfere in the matter.

23. For the aforesaid reasons, this Court does not find that the reasoning given by the Settlement Officer of Consolidation and the Deputy Director of Consolidation are erroneous hence the decision of the three Consolidation Courts are upheld. Consequently, the petition is dismissed. Costs are made easy.

Order Date :- 31.1.2025 ank