

Chandra Bhushan (Deceased) by Lrs.

Vs

Beni Prasad and Others

Civil Appeal No. 3934 of 1986

(CJI Punchhi, G. B. Pattanaik, A. P. Mishra JJ)

24.09.1998

ORDER

1. The name of Respondent 4 is deleted, as prayed for.

2. This appeal is directed against the judgment of the Allahabad High Court in Civil Miscellaneous Writ Petition No. 144 of 1976 which arose out of a proceeding under the Consolidation Act. The dispute centres around three khatas : Khata No. 44 in Village Mamarkha and Khatas Nos. 76 and 345 in Village Jaraon. In the basic year, namely, the year in which the consolidation proceeding was initiated, all these lands stood recorded in the name of the appellant. The respondent, Beni Prasad filed objection claiming a right of co-tenancy and the Consolidation Officer, on consideration of his objection, rejected the same. He carried the matter in appeal and on being unsuccessful, he preferred revision. The revision also stood dismissed. The matter being carried to the High Court in a writ petition, the High Court had interfered with the findings arrived at by all the forums under the Consolidation Act. The claim of the respondent, Beni Prasad in respect of Khatas Nos. 44 and 76 was based on an alleged settlement between the parties entered into in the year 1907. All the forums under the Consolidation Act considered the document, but came to (sic) given effect to, more particularly because of the fact that in none of the settlements after 1907, Beni Prasad has been recorded as a co-tenant in respect of those two khatas. The High Court erroneously came to the conclusion that the authorities under the Consolidation Act did not consider the document on the ground that it was not registered. On such a mistaken basis, the High Court interfered with the findings arrived at by the Consolidation Authorities that the so-called settlement of 1907 had never been given effect to and, as such, the very basis of the claim of Beni Prasad in respect of Khatas Nos. 43 (sic 44) and 76 could not have been entertained. So far as Khata No. 345 is concerned, the claim of Beni Prasad was that in earlier settlement of 1348 Fasli his name was there, but, thereafter, his name stood deleted and since there was no order to that effect, the High Court was of the view that his right cannot be taken away in respect of such Khata No. 345. The authorities under the Consolidation Act, namely, the original appellate and the revisional authorities duly considered the effect of the entries in the subsequent settlements and had recorded a finding that a fresh tenancy was given in favour of the appellants and not Beni Prasad, the respondent. These concluded findings of fact arrived at by the Consolidation Authorities could not have been interfered with by the High Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution and more so, on a total misreading of the judgments of the authorities under the Consolidation Act. Having examined the impugned judgment of the High Court, we are of the considered opinion that the High Court overstepped its jurisdiction in interfering with the findings arrived at by the authorities under the Consolidation Act. We accordingly set aside the impugned judgment of the High Court and affirm the decision made by the authorities under the said Act. This appeal is accordingly allowed.