

SUPREME COURT OF INDIA

Ram Murat (Dead) By Lrs.

Vs.

Deputy Director of Consolidation

(S.Saghir Ahmed and Y.K. Sabharwal JJ.)

14.03.2000

ORDER

S. SAGHIR AHMAD, J.

Civil Appeal No. 7448 of 1996

1. We have heard learned Counsel for the appellants. The plots in question were originally recorded as Talab and Pasture Land. It was regarding these plots that the appellants had filed objection under Section 9-A(2) of the UP Consolidation of Holdings Act claiming sirdari rights which were allowed by the Consolidation Officer. That order obtained finality as it was not challenged either in appeal or in revision before any consolidation authority.

2. Subsequently, a member (Kesho Prasad Misra) of the Land Management Committee made an application that the order has been obtained from the Consolidation Officer fraudulently as the plots being "Talab" and "Pasture Land" belonged to the "Gaon Sabha" and could not have been recorded in the name of the appellants. On this application, the Settlement Officer called for a report which was submitted by the Consolidation Officer and Asst. Consolidation Officer who reported that mutation was properly done. Thereafter, three other members of the Land Management Committee gave an application to the Collector upon which an enquiry was made and the Collector on being satisfied closed the matter. In the meantime, the matter was referred to the Deputy Director of Consolidation by Settlement Officer (Consolidation) and the Dy. Director exercising power under Section 48 of the said Act, issued a notice to the appellants and heard them.

3. The Deputy Director of Consolidation found that the plots in question were all along recorded as "Pond" and "Pasture Land" and the file of the earlier case which was decided by the Consolidation Officer in favour of the appellants and on the basis of which their names were mutated had been weeded out. The Deputy Director of Consolidation found that if the case was decided in 1971 by the Consolidation Officer, the file could not have been weeded out before 1983 as the period for retaining the file was twelve years. It was also noticed that in the "Goshwara" of that file which was available in the Record Room did not indicate the names of the appellants. On this basis, the Deputy Director of Consolidation came to the conclusion that order passed earlier in favour of the appellants was collusive and on that basis no sirdari rights could be conferred upon them in respect of the land which had vested in the State and consequently belonged to the Gaon Sabha. The Writ Petition filed thereafter, by the appellants was dismissed by the High Court with the finding that there was no error in the order passed by the Deputy Director of Consolidation as the petitioners had

failed to show or produce any document of their title in respect of the land in question.

4. The plots in question were recorded in the basic year, i.e., in the year in which the consolidation operation started, as "Pond" and "Pasture Land" with the result that they were the properties of the State as it had vested in the State as a consequence of the Notification issued under Section 4 of the U.P. Zamindari Abolition and Land Reforms Act by which the Zamindari was abolished and all land, including the land belonging to the intermediaries, had vested in the State free from all encumbrances. The consequences of vesting are provided in Section 6 of the Act. It has also been provided under the Act that the land which shall be vested in the State would vest in the Gaon Sabha under Section 117 of the Act on a Notification issued for that purpose by the State Government. Section 11-C of the U.P. Consolidation of Holdings Act casts a duty on the consolidation authorities to protect the interest of the Gaon Sabha. Since it has been specifically found that the plots in question were "Pond" and "Pasture Land", it is difficult to accept the contentions raised on behalf of the appellants that the mutation of that land made in their favour should not have been disturbed by the Dy. Director of Consolidation.

5. For the reasons stated above, we are not inclined to interfere with the orders passed by the Deputy Director of Consolidation or of the High Court. The appeal is dismissed. No costs.

Civil Appeal No. 1945 of 1998

6. The proceedings under the U.P. Consolidation of Holdings Act are still pending before the Deputy Director of Consolidation who once by his order dated 8.8.1991 had consigned the case to Record Room but on an application made on behalf of Gaon Sabha, had recalled that order so that the matter may be decided on merits.

7. This order dated 28.8.1991, by which the earlier order was recalled so that the matter may be decided on merits, was challenged by the appellant before the High Court by a writ petition. The High Court was of the opinion that since the matter was still pending before the Deputy Director of Consolidation and it would not be possible to interfere in the matter and, therefore, it dismissed the writ petition.

8. In this appeal, not only the order passed by the High Court is assailed, but an attempt is made to the question of jurisdiction of the Deputy Director of Consolidation. Since the matter is still to be decided by the Deputy Director of Consolidation on merits, we refuse to go into those questions. We find no infirmity in the judgment of the High Court and, therefore, the appeal is dismissed. No costs.