

KRISHNANAND Vs. DEPUTY DIRECTOR OF CONSOLIDATION
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LAWS(SC)-2014-10-81
Supreme Court Of India
Decided on October 28,2014

KRISHNANAND

Appellant

VERSUS

DEPUTY DIRECTOR OF CONSOLIDATION

Respondents

JUDGEMENT**Sharad Arvind Bobde, J.** - (1.) LEAVE granted.

(2.) THE Appellants have challenged the judgment of the Allahabad High Court, Bench at Lucknow, by which the High Court has set aside concurrent orders passed by the Consolidation Officer, Sultanpur, dated 03.02.1982; Assistant Settlement Officer, Consolidation, Sultanpur dated 21.05.1982; and Deputy Director of Consolidation, Sultanpur dated 17.08.1983. The brief facts giving rise to this appeal may be stated as below: This dispute relates to Khata No. 201 bearing two Gatas. Initially, the land was recorded in the name of Krishna Nand and Shiv Ram, sons of Ram Adhar. The relationship between the parties is as follows: Ram Adhar and Ram Samujh were real brothers, being sons of Bachchu. Ram Adhar was elder to Ram Samujh. Kamla Devi, Ram Samujh's daughter, claimed that although Ram Adhar acted in a representative capacity, the suit -property had been purchased jointly by her father and Ram Adhar in 1938 from the Hasanpur Estate in District Sultanpur. To stake her claim, she relied upon letters and post cards between her father and his brother. Ram Samujh passed away on 03.03.1976, leaving behind Kamla Devi, his sole heir. Ram Adhar and Ram Samujh had partitioned the suit property in the year 1941. Furthermore, Kamla Devi contended before the HC that the suit property was purchased in the name of her Uncle, Ram Adhar in 1938, simply because he was the head of the family. After his death in 1964, Ram Adhar's sons, Krishna Nand and Shiv Ram got the suit -property mutated in their name, in spite of the fact that Kamla Devi remained in possession of her share. In 1973, the village where the suit property is located, was notified pursuant to a consolidation operation. Kamla Devi's husband, who was at the time looking after Ram Samujh's share of the suit -property, filed objections before the Assistant Consolidation Officer, claiming co -tenancy over the said property. The matter upon being referred to the Consolidation Officer, Shiv Ram s/o Ram Adhar and Kamla Devi's father, Ram Samujh entered into a compromise, with both admitting half -share to each. Pursuant to this, the Consolidation Officer decided the case and accordingly the chak was carved out. Subsequently, Krishna Nand, i.e. Shiv Ram's brother, filed his objection Under

Section 9(2) of the UP Consolidation of Holdings Act, 1953 for the cancellation of the above mentioned compromise, which was rejected. Aggrieved, Krishna Nand preferred an Appeal before the Appellate Authority -The Assistant Settlement Officer of Consolidation at Sultanpur, who allowed the Appeal and quashed the Order passed by the Consolidation Officer and remitted the matter to him, with directions to decide the matter afresh on merits. Accordingly, the Consolidation Officer reconsidered the matter, and dismissed Kamla Devi's claim over the suit property and declared her a trespasser. Aggrieved, she preferred an Appeal before the Settlement Officer of Consolidation, who dismissed her claim. Thereafter she filed a Revision before the Deputy Director of Consolidation, which was also dismissed. Aggrieved, she filed a writ -petition before the High Court, which was allowed vide the impugned order dated 06.05.2013.

(3.) WE have heard learned Counsel for the parties and perused the record. ;

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