

Court No. - 48

Case :- WRIT - B No. - 301 of 1985

Petitioner :- Amar Nath

Respondent :- D.D.C.And Others

Counsel for Petitioner :- Krishna Nand Rai,A.K.
Singh,Gyanendra Tripathi

Counsel for Respondent :- R. Prasad,Rakesh Kumar
Srivastava,S.C.

Hon'ble Saurabh Shyam Shamsbery,J.

Heard Sri K.N. Rai, learned counsel for petitioner and Sri Narendra Singh, Advocate holding brief of Sri Rakesh Kumar Srivastava, learned counsel for contesting respondents.

The dispute in present case is regarding chak allotment, however, this writ petition is pending for last more than three and half decade.

Learned counsel for petitioner submits that at the stage of Appellate Authority that there was a compromise between parties which was duly taken note by Appellate Authority and chaks were allotted accordingly, however, revision petition filed on behalf of respondent, an erroneous finding was returned since, the document of compromise was not on record, therefore, it cannot be looked into and revision petition was allowed.

Learned counsel further submits that in this regard a specific averment has been taken in this writ petition and refers paragraph No.15 which is reproduced hereinafter:-

"15. That the petitioner filed an application dated 25th September, 1984 to summon the record of case No.626 of 1984 (Bidhi Narain V. Amar Nath) decided on 5th January, 1984 under Section 9 of the U.P. Consolidation of Holdings Act on the basis of the compromise dated 4th January, 1984. No order was passed by the Deputy Director of Consolidation on the said application and the record of that case was also summoned."

Despite this writ petition is pending for more than three and half decade but no counter affidavit has been filed on behalf of respondent.

Learned counsel for contesting respondents on basis of instruction submits that in case, this Court may remit the matter for fresh consideration, there may be a direction to decide it in a time bound manner.

I have considered the above submission and perused the record, the Appellate Court has specifically noted about existence of compromise and for that relevant paragraph thereof is mentioned hereinafter:-

"पक्षों को सुना गया एवं ग्राम के अभिलेख व भूचित्र देखे गये। कागजात के अवलोकन से पाया गया कि अपीलकर्ता का जो चक गाटा संख्या १६ आदि पर बना था उसमें च.अ. के आदेश दिनांक ११.८.८३ के अनुपालन में चकदार संख्या ३४४ को ३-०६ आने की मालियत जो दी जानी थी वह गाटा संख्या १६/२ से पूरी की गयी है परन्तु यह उचित प्रतीत नहीं होता है क्योंकि च.अ. स्तर पर पक्षों जो समझौता गाटा संख्या २७३ आदि पर बने तीसरे चक के मालियत दिये जाने का समझौता किया था परन्तु देय मालियत गाटा संख्या १६/२ पर बने चक से दिया गया है। अतः अपीलकर्ता की मांग को स्वीकार करते हुए विपक्षी का चक जो गाटा संख्या १६ /२ पर बना है वह निरस्त करके अपीलकर्ता को दिया जाता है तथा विपक्षी को अपीलकर्ता के स.च.अ. स्तर पर बने तीसरे चक से जो गाटा संख्या २७३ आदि पर बना है में चक दिया जाता है।"

(Emphasis Supplied)

In the aforesaid circumstances, the finding returned by Deputy Director of Consolidation that compromise was not on record appears to be incorrect. It appears that Revisional Authority has not summoned the records, therefore, an irregularity has erupted. In the aforesaid circumstances, impugned order is set aside and matter is remitted to Deputy Director of Consolidation to decide afresh after hearing parties and taking note of the compromise also, preferably within a period of two and half months from today.

This writ petition is accordingly, **disposed of.**

Order Date :- 1.11.2023

P. Pandey