

Court No. - 43

Case :- WRIT - B No. - 13042 of 2000

Petitioner :- Arjun

Respondent :- D.D.C. And Others

Counsel for Petitioner :- Govind Krishna,A.P.Singh,Abhishek Krishna,Dewarshi Kumar Rai,Jamil Ahamad Azmi

Counsel for Respondent :- C.S.C.,Manjulesh Kumar Shukla,Yogesh Dutta Mishra

Hon'ble Anjani Kumar Mishra,J.

Order on Civil Misc. Delay Condonation Application Nos. 1 of 2022 and 11 of 2023.

1. Heard learned counsel for the parties.
2. The delay condonation applications are allowed and the delay is condoned finding the cause shown for delay to be sufficient.

Order on Civil Misc. Substitution Application Nos. 2 of 2022 and 12 of 2023.

Heard learned counsel for the parties.

The substitution applications are allowed.

Necessary incorporation be carried out forthwith by the office.

Order on Civil Misc. Delay Condonation Application No. 3 of 2022.

1. The cause shown for the delay in filing the recall application is found to be sufficient.
2. The delay is condoned.

Order on Civil Misc. Recall Application No. 4 of 2022.

1. Heard learned counsel for the parties.
2. The cause shown for non appearance is sufficient.
3. The recall application is allowed and the writ petition is restored to its original number.

Order on Writ Petition.

1. Heard learned counsel for the parties.
2. The instant writ petition arises out of proceedings for allotment of chaks and seeks a writ of certiorari for quashing of the order passed by the Deputy Director of Consolidation dated 28.02.2020, whereby the revision filed by the contesting respondents in this writ petition has been allowed.
3. The contention of the learned counsel for the petitioner is that the order of the Settlement Officer Consolidation, which was challenged by the respondents before the revisional court was an order passed on the basis of a compromise. Therefore, the order should not have been interfered with by the Deputy Director of Consolidation, being a consent order.
4. Counsel appearing for the respondents referring to the averments in the counter affidavit has stated that no compromise was entered into between the parties at the appellate stage. Therefore, the submission made by learned counsel for the petitioner is without merit. By the order impugned, the parties have been shifted to their original holdings from udan chaks allotted to them. Therefore, the revisional court has acted strictly in accordance with law and its order is not liable to be interfered with.
5. I have considered the submissions made by learned counsel for the parties and perused the record.
6. The order passed by the Settlement Officer Consolidation adjusting the chaks of the parties is dated 30.01.1999.
7. Against this order a belated revision was filed on 08.09.1999.
8. Although, the appellate order clearly mentioned that it was being passed on the basis of a compromise between the parties. The memo of revision filed by the contesting respondents is absolutely silent as regards the compromise. Non existence of compromise at the appellate stage should have been one of the primary grounds for filing the revision, in case, no compromise had actually been entered into between the parties. No such ground is to be found in the memo of revision. Therefore, in my considered opinion, the respondents cannot be permitted to plead at the writ stage and in a counter affidavit that they had now entered into a compromise. This pleading is nothing but after thought.
9. Moreover, since the appellate order was passed on the basis of a compromise, which fact has not been taken note of by the Deputy Director of Consolidation while reversing it and

modifying the chaks of the parties, the revisional order is not liable to be sustained.

10. Accordingly and in view of the above, this writ petition is allowed. The impugned order dated 28.02.2020 passed by the Deputy Director of Consolidation is, hereby, quashed.

Order Date :- 8.12.2023

Mayank