

Court No. - 48

Case :- WRIT - B No. - 3834 of 2023

Petitioner :- Pankaj Kumar

Respondent :- Deputy Director Of Consolidation And 2 Others

Counsel for Petitioner :- Prabal Kumar Dixit

Counsel for Respondent :- C.S.C

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri Prabal Kumar Dixit, learned counsel for petitioner and Ms. Tanu Rupanwal, learned Standing Counsel for State.

2. In the present case, land in dispute is situated in district- Etawah. An appeal arising out of consolidation proceedings was transferred to Appellate Authority at Auraiya wherein an interim order was passed and appeal was fixed for hearing by an order dated 19.05.2023.

3. Above referred interim order 19.05.2023 was challenged at the behest of petitioner before Deputy Director of Consolidation, Auraiya, however, by impugned order dated 29.05.2023, revision petition was rejected on ground of jurisdiction that land in dispute was situated at Etawah, therefore, revision ought to have been filed before Revisional Authority at Etawah.

4. Aforesaid order of 29.05.2023 is impugned in this writ petition.

5. Learned counsel for petitioner has placed reliance on judgments passed by this Court in **Parshuram vs. D.D.C., Ballia, 2006 (100) RD 746** and **Darbari Lal vs. D.D.C., Jalaun, 1989 RD 304** and relevant paragraphs of Parshuram (supra) is quoted below :-

"8. I have considered the arguments advanced by the learned Counsel for the

parties and perused the record. In the case of *Darbari Lal* (supra) the property in dispute was situate in district Jalaun. The appeal filed against the order of Consolidation Officer was transferred from Jalaun to the Court of Settlement Officer Consolidation, Kanpur. Against the appellate order passed by Settlement Officer Consolidation, Kanpur, a revision was preferred before the Deputy Director of Consolidation, Jalaun at Orai. Objection against the maintainability of the revision before the Deputy Director of Consolidation, Jalaun at Orai was rejected and the matter came to this Court. This Court after considering the provision of the Act and Rules (sic) held that Revisional Court of Jalaun at Orai will have no jurisdiction to hear the revision against the order of the appellate authority of Kanpur. The facts of the case of *Darbari Lal* are identical to the fact of the present case and the law laid down in the said case applies with full force.

9. In so far as the case of *Ram Das Rai* relied upon by the learned Counsel for the respondents is concerned the same is clearly distinguishable. In the case of *Ram Das Rai* the Consolidation Commissioner transferred some appeals pending in the Court of Settlement Officer Consolidation, Deoria to Sri Ram Chandra Yadav, Settlement Officer Consolidation, Gorakhpur with a direction that he would hold camp at Deoria and decide the appeals. Against the appellate order revision was filed before the Deputy Director of Consolidation, Deoria. The question arose whether the revision would be maintainable before the Deputy Director of Consolidation, Deoria or before Deputy Director of Consolidation, Gorakhpur. Learned Single Judge held that the revisions filed before Deputy Director of Consolidation, Deoria were maintainable. It was held that the order passed by the Consolidation Commissioner directing Sri Ram Chandra Yadav, Settlement Officer Consolidation, Gorakhpur to decide the appeal by holding a camp at Deoria was a direction within meaning of sub-section 2 of section 42 of the Act and he would be deemed to be Settlement Officer Consolidation, Deoria and for this reasons, revision filed before the Deputy Director Consolidation, Deoria were held to be maintainable. The facts in so far as present case is concerned, are entirely different. In the present case, the appeals were transferred to be heard by the Settlement Officer Consolidation, Mau. The facts being clearly distinguishable, the case of *Ram Das Rai* is of no help to the respondents. Even otherwise, the ratio of this decision supports the contention advanced by

learned Counsel for the petitioner.

10. Division Bench judgment in the case of *Shitla Prasad v. Deputy Director of Consolidation* relied upon by the learned Counsel for the respondents also has no application in the facts and circumstances of the present case. In the case of *Shitala Prasad* (supra) revisional order was challenged on the ground that since the revision was not transferred by the District Deputy Director of Consolidation, Faizabad to the Deputy Director of Consolidation, Lucknow in camp at Faizabad, it could not be heard and disposed of by him and his judgment is void for that reasons. It was in the context of the aforesaid facts, the Division Bench held that a revision-application can be made to the Deputy Director of Consolidation and that all the Deputy Director of Consolidation in Uttar Pradesh have jurisdiction to hear the revision-application under section 48 of the Act. Learned Counsel for the respondents has urged that in view of the observation made by Division Bench any Deputy Director of Consolidation will have jurisdiction to hear a revision-application and thus the revision filed before Deputy Director of Consolidation, Ballia against the order of Settlement Officer Consolidation, Mau would be maintainable.

11. I am afraid the interpretation being given by the learned Counsel for the respondents to the observations made by the Division Bench are totally misconceived. The question before Division Bench was as to whether the Deputy Director of Consolidation could decide a revision without file being transferred to him by the District Deputy Director of Consolidation. While, rejecting the arguments that Officer hearing a revision-application gets jurisdiction to hear it by the authority of the order of transfer of the case to his file by the District Deputy Director of Consolidation, it was observed by the Division Bench as follows:

“This provision read along with various notifications issued by the State Government from time to time and the order of the Director clearly show that a revision-application can be made to a Deputy Director of Consolidation and that all the Deputy Director of Consolidation in Uttar Pradesh have jurisdiction to hear a revision-application is not conferred by an order passed under Rule 65(1-A) but by the provision of the Act mentioned above and the notifications of the State Government.”

12. The aforesaid observation made by the Division Bench has to be read with

reference to the facts of the case and in context of the question which was being considered. If the aforesaid observations are to be read in the manner as suggested by the learned Counsel for the respondents in that case any Deputy Director of Consolidation in the entire State of U.P. could seize upon any case and decide it himself irrespective of the fact whether the dispute lies within territorial jurisdiction of the district where he is posted or not. This would not only be against the provisions of the Act but would also result into total chaos.

13. In view of the aforesaid discussions, the two case laws relied upon by the learned Counsel for the respondents being clearly distinguishable are of no help to him. On the contrary the law laid down in the case of *Darbari Lal* with which I am in respectful agreement applies with full force.

14. As a result, the writ petition stands allowed, the impugned order of Deputy Director of Consolidation dated 10.3.2006 is hereby quashed. The revision filed by the answering respondents before Deputy Director of Consolidation, Ballia is not maintainable and stands dismissed. It would however be open to the respondents to file revision afresh before the competent Court."

6. Learned Standing Counsel for State fairly submits that impugned order is in teeth of above referred judgments.

7. In aforesaid circumstances, since impugned order is contrary to above referred judgments and since revision petition was dismissed on issue of jurisdiction, therefore, no prejudice would cause to respondents, if the writ petition be decided without issuing a notice, therefore, impugned order dated 29.05.2023 is set aside and matter is remitted back to Deputy Director of Consolidation, Auraiya to consider revision petition filed by petitioner in accordance with law expeditiously.

8. Writ petition is partly **allowed**.

Order Date :- 17.11.2023

Nirmal Sinha