

Chief Justice's Court

Case :- SPECIAL APPEAL DEFECTIVE No. - 268 of 2024

Appellant :- Vijay Bahadur Yadav

Respondent :- State Of U.P. Thru. Consolidation
Commissioner U.P. Lko. And Others

Counsel for Appellant :- Shri Ram Sagar, Counsel for the
appellant

Counsel for Respondent :- Shri Pratyush Chaubey, Standing
Counsel.

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Jaspreet Singh,J.

1. Heard Shri Ram Dheeraj, learned counsel for the appellant and Shri Pratyush Chaubey, learned Standing Counsel for the State-respondents.
2. The instant intra court appeal has been preferred by the appellant being aggrieved by the judgment and order dated 14.12.2023 passed in Writ-B No.1102 of 2023 (Vijay Bahadur Yadav Vs. State of U.P. and others) whereby the learned Single Judge dismissed the writ petition preferred by the appellant.
3. The appeal is also accompanied by an application seeking condonation of delay. It has been reported that the appeal is barred by 93 days. However, upon considering the cause shown relating to the illness of the appellant, this Court finds that the ground shown is sufficient. Accordingly, I.A. No.1 of 2024 shall stand allowed and the delay shall stand condoned.
4. The Court thereafter has heard the learned counsel for the appellant on merits who assails the order passed by the learned Single Judge primarily on the ground that the findings recorded by the learned Single Judge are against the record.
5. It is urged that there are contrary reports submitted by the

Revenue Lekhpal indicating that in respect of the village under consolidation, 2/3rd of the plots in question which were subjected to consolidation operations have been consolidated and possession has been transferred whereas 1/3rd plots are still not consolidated and despite several objections filed by the aggrieved parties yet an attempt is being made to issue a notification under Section 52 of the U.P. Consolidation of Holdings Act, 1953 and this is causing prejudice to the appellant.

6. It is also urged that no adequate opportunity of hearing was given and the writ petition has been dismissed on insufficient grounds hence, in the aforesaid circumstances the appeal deserves to be allowed and the decision of the learned Single Judge be set aside. Consequently, the writ petition filed by the appellant be allowed.

7. The Court has heard the learned counsel for the parties and also perused the material on record.

8. At the outset, it may be noticed that the petitioner had preferred Writ-B No.1102 of 2023 seeking the following reliefs:-

(a) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 27.07.2023 passed by respondent no.1, Consolidation Commissioner, Lucknow (Annexure No.12 to this writ petition).

(b) Issue a writ order or direction in the nature of mandamus directing the respondent no.3 to decide the revision pending before him.

9. In support of the prayer made by the appellant, it was pleaded before the learned Single Judge that the petitioner alongwith 76 villagers filed an application before the Consolidation Commissioner at Lucknow requesting to complete the consolidation operations in respect of 150 Gatas

of the village Barsora, Post Gopalapur, Tehsil Badlapur, District Jaunpur was also pleaded that the petitioner had filed the writ petition which was consolidated with Writ Petition No.58920 of 2013 (Rama Kant Vs. State of U.P. & others) alongwith Writ Petition N0.875 of 2022 (Vijay Bahadur Yadav Vs. State of U.P. & others) which was disposed of with a direction to the Consolidation Commissioner to consider the facts and circumstances and the pending representation and the same be decided with a period of six months.

10. It is urged that despite the same the matter has not been appropriately decided rather the order passed by the Consolidation Commissioner dated 27.07.2023 has been passed without affording appropriate opportunity of hearing.

11. Upon considering the pleadings of the writ petition, it would indicate that the appellant challenged the order passed by the Consolidation Commissioner dated 27.07.2023, a copy of which is at running page No.151 and from perusal thereof it reflects that proper direction were given to the Deputy Director of Consolidation, Jaunpur to ensure that in pursuance of the order dated 25.07.2010 passed by the Consolidation Officer proper consolidation records, consolidation map be prepared after making a spot inspection and after completing the exchange of possession in respect of the newly consolidated plots and only thereafter the notification under Section 52(1) of the Consolidation of Holdings Act, 1953 be issued.

12. This order was assailed primarily on the ground that opportunity was not granted to the appellant, however, the same was found to be incorrect; inasmuch as the brother of the appellant was duly heard and thereafter the order dated 27.07.2023 was passed.

13. From the entire pleading in the writ petition, it has not been clearly indicated as to how the appellant himself is personally aggrieved by any of the consolidation proceedings. The basic grievance of the appellant that his representation has not been considered is also incorrect; inasmuch as the order dated 27.07.2023 passed by the Consolidation Commissioner takes note of the entire circumstances, contentions and

thereafter appropriate direction has been issued to the Deputy Director of Consolidation concerned, which cannot be faulted. In case if the appellant personally had any grievance, the same can only be considered by the Consolidation Authorities in accordance with law and though submission was sought to be made by the counsel for the appellant that the appellant had filed an appeal which was allowed by the Settlement Officer of Consolidation and the matter was remanded to the Consolidation Officer but there are no pleadings in this regard nor proper documents have been filed on record to support the said plea. In absence of any clear pleadings or clear cause of action, which may give any right to the appellant to assail any particular order under the consolidation proceedings, this Court is unable to accept the contentions of the learned counsel for the appellant.

14. If the documents filed with the writ petition is seen, it would indicate that some order dated 13.08.1986 was passed against which an appeal was filed. However, it does not indicate that the petitioner or his father Pancham (now deceased) was a party to the said appeal nor it indicates that any particular plot of the petitioner was affected which could give rise to any cause of action to the petitioner. The appeal was filed by Rama Kant and not by the petitioner. Moreover, the reference made to two writ petitions by the petitioner also indicate that they were filed by Rama Kant and not by the petitioner. The order of remand has also been passed on an appeal by Rama Kant and not the petitioner.

15. Neither Rama Kant is a party to this petition nor the petitioner could explain how was he aggrieved as it has not been shown as to what plot of the petitioner has been adversely affected nor could the nexus between the grievance of the petitioner with that of Rama Kant could be demonstrated. The submissions of the learned counsel for the petitioner is as vague and disjuncted as his pleadings.

16. In light of the above this Court finds that the writ petition itself is vague and bereft of necessary particulars. Moreover, the second prayer made regarding expeditious disposal of revision said to be pending before the respondent no.3, if considered, yet again in absence of any clear pleadings regarding the revision

number and details as to who are the parties concerned in the said revision and what orders are under challenge in the said revision, this Court is unable to accept the contention of the learned counsel for the appellant in that regard as well.

17. The Court has satisfied itself that the order passed by the learned Single Judge dated 14.12.2023 does not suffer from any error and accordingly there is no scope for interference in the order dated 14.12.2023.

18. The instant special appeal being devoid of merits is, accordingly, dismissed. There shall be no order as to costs.

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(Jaspreet Singh, J.) (Arun Bhansali CJ.)

Order Date :- 15.10.2024

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