

Neutral Citation No. - 2025:AHC:59160

Court No. - 50

Case :- WRIT - B No. - 629 of 2021

Petitioner :- Manmohan Singh

Respondent :- Deputy Director Of Consolidation And 2 Others

Counsel for Petitioner :- Parth Goswami, Sanjay

Goswami, Satyendra Nath Srivastava

Counsel for Respondent :- C.S.C., Satya Prakash

Mishra, Shatrughan Jee Pandey

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Sanjai Goswami, learned counsel for the petitioner, Mr. Satya Prakash Mishra, learned counsel for respondent Nos.2 and 3, Mr. Shatrughan Jee Pandey, learned counsel for respondent No.4 and learned Standing Counsel for the State-respondents.

2. Brief facts of the case are that petitioner is chak holder No.580. Respondent No.2 is chak holder No.937 and respondent No.3 is chak holder No.1108, respondent No.4 is chak holder No.740. Plot No.555 is original road side plot of the petitioner and contesting respondent have no share in the aforementioned plot No.555. The chak proceeding was initiated against the proposal made by the Assistant Consolidation Officer. Consolidation Officer vide order dated 31.08.2019 accepted the claim of the petitioner by allotting chak on his original road side plot No.555. The chak appeal filed by private respondent Nos.2 & 3 was dismissed vide order dated 27.12.2019.. Against the appellate order dated 27.12.2019, two revisions were filed under Section 48 of U.P.C.H. Act. Revision No.2020531213000023 (Shashikant Sharma vs. Manmohan Singh and others) was filed by respondent No.3-Shashi Kant Sharma and revision No.2020531213000026 (Vipin Kumar Sharma vs. Manmohan Singh and others) was filed by respondent No.2- Vipin

Kumar Sharma. The Deputy Director of Consolidation consolidated heard both the revisions together and allowed the same vide order dated 25.01.2021 affecting the chak holder No.937, 580, 482, 1108, 740 and 958 as well as chak-marg and bachat land. Hence this writ petition on behalf petitioner for the following relief:

"(I). to issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 25.01.2021 passed by the Deputy Director of Consolidation Bareilly in Revision No.2020531213000023 (Shashikant Sharma Vs. Manmohan Singh and others) and Revision No.2020531213000026 (Vipin Kumar Sharma vs. Manmohan Singh and others) (Annexure No.8 to the writ petition)."

3.This court entertained the matter on 01.07.2021 but no interim protection was granted. In pursuance of the order dated 01.07.2021, parties have exchanged their pleadings.

4. Learned counsel for the petitioner submitted that plot no.555 is original road side plot of the petitioner, as such petitioner cannot be deprived from allotment of chak on plot No.555. He submitted that in chak objection filed by the petitioner, consolidation officer has rightly considered the grievances of the petitioner and allowed the chak objection allotting chak on plot No.555. He submitted that chak appeal filed by private respondent Nos.2 and 3 was dismissed, but in exercise of jurisdiction under Section 48 of U.P.C.H. Act, the Deputy Director of Consolidation has illegally disturbed the petitioner's chak taking out plot No.555 area 0.541 hectare and allotting him a chak on plot No.277 and 629 which is illegal. He submitted that private respondents are not original tenure holder of plot No.555, as such the private respondents cannot be allotted chak over the road side plot of the petitioner. He submitted that impugned revisional order should be set aside and stage of consolidation officer should be maintained.

5. On the other hand, Mr. Satya Prakash Mishra, learned counsel for the private respondent Nos.2 & 3 submitted that there is no illegality in the revisional order passed by Deputy Director of Consolidation as petitioner was agreed for allotment of chak to private respondents over plot No.555 accordingly, proposal was made by Assistant Consolidation Officer. He submitted that petitioner is not resident of the village in question rather petitioner is doing brick-klin business as such principle of allotment of road side plot will not be applicable to the petitioner. He submitted that chak objection filed by petitioner was allowed in arbitrary manner, as such Deputy Director of Consolidation has rightly exercised the revisional jurisdiction under Section 48 of U.P.C.H. Act in making allotment of chak to private respondents over plot No.555. He submitted that Deputy Director of Consolidation has considered the hardship of the both the parties while passing the revisional order as such no further interference is required in the matter. He further submitted that petitioner is in possession of chak allotted by the Deputy Director of Consolidation in the year 2021, as such writ petition is liable to be dismissed.

6. Mr. Shatrughan Jee Pandey, learned counsel for the respondent No.4 submitted that Deputy Director of Consolidation has rightly adjusted the chak of respondent No.4 on plot No.629 in place of plot No.582/1 where no area is available as such no interference is required against the impugned revisional order dated 25.01.2021.

7. I have considered the arguments advanced by the learned counsel for the parties and perused the record.

8. There is no dispute about the fact that plot No.555 is original road side plot of the petitioner. The consolidation Officer while considering the chak objection filed by petitioner has allotted chak to the petitioner on his original road side plot No.555, which has maintained in appeal but in revision interference has been made by

Deputy Director of Consolidation while exercising the revisional jurisdiction under Section 48 of U.P.C.H. Act.

9. In order to appreciate the controversy involved in the matter, the perusal of original holding of petitioner as well as respondent Nos.2 & 3, proposal made by Assistant consolidation Officer which was modified by Consolidation Officer as well as Deputy Director of Consolidation will be relevant which are as under:

Particular in respect to petitioner (Chak holder No.580)

"Original holding of the petitioner

चक संख्या	नाम चकदार	खाता संख्या	मूल जोत कि गाटा	क्षेत्रफल	चकदार का अंश	अंश-के अनुसार क्षेत्रफल	विनिमय अनुपात के अनुसार मूल्यांकन
580	मनमोहन सिंह पुत्र प्रतिपाल सिंह	212	277/2	1.670	735/1670	0.735	66.15
		251	262 263 555	0.076 0.066 0.689	चक० बा० चक० बा० पूर्ण अं ।	0.689	62.01
		252	544	1.404	1/2	0.702	63.18
		336	276/1	0.572	1/3	0.191	17.16
	योग	6 किता		—	2.317	2.317	208.50

Chak as proposed by Assistant Consolidation Officer after deduction

चक	गाटा संख्या	क्षेत्रफल	विनिमय अनुपात	मूल्यांकन(जो मिला)
प्रथम चक	276/1	0.371	90/-	33.62
द्वितीय चक	277/1 मि०	1.120	90/-	100.84
	277/3 मि०	0.030	90/-	2.70
तृतीय चक	2 किता	1.150	90/-	103.54
	544 मि०	0.723		65.08
	4 किता	2.244	---	202.24

Chak as amended by the Consolidation Officer

चक	गाटा संख्या	क्षेत्रफल	विनिमय अनुपात	मूल्यांकन (जो मिला)
प्रथम चक	555 मि०	0.541	90/-	48.67
द्वितीय चक	277/2 मि० 277/3 मि०	0.769 0.030	90/- 90/-	59.15 2.70
तृतीय चक	2 किता 544 मि०	0.799 0.723	— 90/-	71.85 65.08
	4 किता	2.063	—	185.60

The position after the decision of the Deputy Director of Consolidation whereby the allotment of chak to the petitioner was amended:

चक संख्या 580 से निकाला गया	चक सं० जिसको दिया गया	चक संख्या 580 में दिया गया	चक संख्या जिससे याची को मिला,
555 मि० रकवा 0.031 मूल्यांकन 2.80 555 मि० रकवा 0.012 मूल्यांकन 1.00 555 मि० रकवा-0.431-मूल्यांकन 38.78 555 मि० रकवा 0.067 मूल्यांकन 06.09	1108 810 मार्ग 937 1108	227/1 मि० रकवा 0.182 मूल्यांकन 16.41 629/1 मि० रकवा 0.067 मूल्यांकन 6.09 629/1 मि० रकवा 0.291 मूल्यांकन 26.17	482 1108 937
4 किता 0.541 48 67		3 किता 0.540 48.67	

Particular in respect to respondent No.2 (Chak Holder No.937):-

The original holdings of Chak no.937 Vipin Kumar respondent no. 2:

चक संख्या	नाम खातेदार	खाता संख्या	मूल गाटा संख्या	क्षेत्रफल	अंश	अंश-के अनुसार क्षेत्रफल	अंश-के अनुसार मालियत
937	विपिन कुमार पुत्र नन्हें बाबू भार्मा	272 ,377 431, 449	597 629 553 554 552 307 मि०	2.446 1.354 0.060 0.066 0.111	1/24 95/1354 पूर्ण अं । पूर्ण अं। पूर्ण अं। पूर्ण अं।	.102 हे० .095 हे० .066 हे० .126 हे० .066 हे० .111 हे०	9.17 8.44 5.94 11.34 5.94 9.45
						0.556	50.28

Chak as proposed by Assistant Consolidation Officer after deduction

चक	गाटा संख्या	क्षेत्रफल	विनिमय अनुपात	मूल्यांकन(जो मिला)
प्रथम चक	307/1 मि०	0.111 हे०	90/-	9.99
द्वितीय चक	555 मि०	0.442 हे०	90/-	39.78
योग	2 किता	0.553 हे०		49.77

Chak as amended by Consolidation Officer:

निकाला गया	दिया गया
गाटा संख्या 555 मि० 0442 मू० 39.78 रुपये	629/1 मि० 0442 मू० 39.78 रुपये

After the objection before the Consolidation Officer two chaks of the contesting respondents were carved out on their original holdings nos. 307 and 629 which was kept as it is by the Settlement Officer Consolidation. The respondent no. 1 made following amendments in the chak while deciding the revision:-

निकाला गया	दिया गया
629 मि० रकबा 0.431 हे० मालियत 38.78	555 मि० .431 हे० मालियत 38.78

Particular in respect to respondent No.3 (Chak Holder No.1108)

The details of the Chak No. 1108 of Shashi Kant Sharma

चक संख्या	नाम खातेदार	खाता संख्या	मूल गाटा संख्या	क्षेत्रफल	अंश	अंश-के अनुसार क्षेत्रफल	अंश-के अनुसार मालियत
1108	भा । कान्त भार्मा पुत्र नन्हे बाबू भार्मा	272 449	597 307/1 मि०	2.446 हे० 0.093 हे०	1/24 पूर्ण अंश	.102 हे० .093 हे०	9.17 8.37
						195	17.54

After the deduction of valuation to the tune of Rs. 0.53/- a total valuation of Rs. 17.01/ remained according to which the Assistant Consolidation Officer proposed the following chak:

चक	गाटा संख्या	क्षेत्रफल	विनिमय अनुपात	मूल्यांकन (जो मिला)
प्रथम चक	307/2	0.090 हे०	90/-	9.04 रुपये
द्वितीय चक	555 मि०	0.099 हे०	90/-	8.89 रुपये
योग	दो कित्ता	0.189 हे०		17.01 रुपये

The amendment made by the Consolidation Officer under order dated 31.8.2019 in case no. 408 the second chak was amended in the following manner which was confirmed by the Settlement Officer Consolidation:

निकाला गया	दिया गया
गाटा संख्या 555 मि० 0.099 हे० मू० 8.89	629/1 मि० .067 हे० मू० 6.09 रुपये 307/1 मि० 0.031 हे० मू० 2.80 रुपये

The amendment made by Deputy Director of Consolidation in Revision:

निकाला गया	दिया गया
629/1 मि० .067 हे० मू० 6.09 रुपये 307/1 मि० 0.031 हे० मू० 2.80 रुपये	गाटा संख्या 55 मि० 0.098 हे० मू० 8.89

10. The perusal of the chart as quoted above fully demonstrate the plot Nos. 555 & 544 are original plots of the petitioner and respondent Nos. 2 & 3 have no share in plot Nos.555 & 544. It is admitted fact that plot Nos.555 & 544 are road side plots. Considering the aforementioned aspect of the matter, the Consolidation Officer has rightly exercised the jurisdiction by allotting plot Nos. 555 & 544 in the chak of petitioner and respondent Nos.2 & 3 were adjusted to their original plot Nos. 629 & 307.

11. So far as claim of respondent No.4 is concerned, since no appeal or revision was filed by respondent No. 4 against the order of consolidation officer as such there is no illegality in maintaining

the stage of Consolidation Officer in respect to respondent No.4 also.

12. This court has held from time to time that original road side plot cannot be allotted to anybody except to the original tenure holder or the same should be declared as C.H. 18. The relevant case law for allotment of road side plot to original tenure holders are as under:

I. 993 R.D. 219

Raghuvansh Shukla Vs. Joint Director of Consolidation & others.

II. (2006) 100 RD 212

Ram Chandar Vs. Deputy Director of Consolidation Varanasi & others.

III. (2020) 147 RD 219 Ram Badan Vs. D.D.C. & others.

13. Paragraph Nos. 15 and 16 of the judgment rendered by this Court in the case of Ram Badan (Supra) will be relevant for perusal which is as under:

“15. The consensus of principle that emerges from the decisions in Ram Prasad (supra), Ramadhar Singh (supra) and Sanjay and another (supra) is that valuable roadside land that is the original holding of a tenure holder, is to be declared chak out or allotted to him as part of his Chak, unless it be imperative on account of some compelling circumstances that may require some marginal departure from the Rule. There is no finding recorded by the Deputy Director of Consolidation or the Settlement Officer that allotment of the entire area of Khasra No. 60/3 (old) to the petitioner, that is part of the petitioner's original holding lies in front of the third respondent's Abadi and would cause the third respondent some great inconvenience or irreparable injury as spoken of in the decision of this Court in Ram Shanker (supra). The remark of the Deputy Director of Consolidation that though it is not appropriate to include any part of this plot in the third respondent's chak as it is not part of his original holding, considering his Abadi, the same may

not be disturbed as ordered by the Settlement Officer of Consolidation, is flawed. To this, is added a remark that, therefore, it would not be proper to remove the part of the plot in dispute included in the Chak of the third respondent. For one, it is not reason enough to deprive the petitioner of a substantial part of his valuable roadside land in favour of the third respondent. Moreover, a look at the confirmed consolidation map shows that between one part of old Khasra No. 60/3 (now renumbered as 369) and included in the third respondent's chak and the third respondent's Abadi, there is a sector road running through. This confirmed map is on record as part of Annexure No. SRA-1 to the supplementary rejoinder affidavit dated 18th July, 2019 filed on behalf of the petitioner. There is no dispute about this.

16. The added fact that a sector road now runs through between those plots where the third respondent claims his Abadi and old Khasra No. 60/3 that is the petitioner's original holding, occurrence of even a slight prejudice to the third respondents, let alone a compelling circumstance that may leave no option with the Authorities but to deprive the petitioner of some part of his valuable roadside land, part of Khasra No. 60/3 (old), is a conclusion that cannot be said to be a legitimate exercise of discretion by the Consolidation Authorities, one way. Here is a case where the Deputy Director of Consolidation affirming the Settlement Officer of Consolidation has deprived the petitioner of valuable roadside land in violation of settled legal principles that valuable roadside land is either to be excluded from consolidation operations or included in the Chak of that Chakholder, who held it as original holding. This principle is to be departed from for very compelling reasons that are not forthcoming in this case."

14. In the instant matter, private respondents are not original tenure holder of the plot No.555 as such the allotment of plot No.555 to private respondent Nos. 2 & 3, who are not original tenure holder of plot No.555 cannot be sustained in the eye of law.

15. Considering the entire facts and circumstances of the case, the impugned revisional order dated 25.01.2021 passed in revision

Nos.2020531213000023 and 2020531213000026 are liable to be set aside and same are hereby set aside.

16. The writ petition stands allowed and the stage of Consolidation Officer is hereby maintained.

17. No order as to costs.

Order Date :- 21.4.2025

PS*