

Neutral Citation No. - 2025:AHC:75926

Court No. - 50

Case :- WRIT - B No. - 34722 of 2003

Petitioner :- Hoshiyar Singh

Respondent :- D.D.C. And Others

Counsel for Petitioner :- Ravesh Kumar Singh, Dr. V.K. Rai, Sankatha Rai, Shiv Nath Singh, V.K. Rai

Counsel for Respondent :- C.S.C., P.K. Dixit

Hon'ble Chandra Kumar Rai, J.

1. Heard Dr. Vinod Kumar Rai, learned counsel for the petitioners, Mr Rajesh Kumar Srivastava learned Standing Counsel for the state-respondents.

2. Nobody is present on behalf of private respondents.

3. Brief facts of the case are that petitioner No.1 is chak holder No.548 petitioner No.2 is chak holder No.308, petitioner No.3 is chak holder No.488 and respondent No.2 is chak holder No.134. The proposal made by Assistant Consolidation Officer was maintained up to Settlement Officer of Consolidation Stage. Revision under section 48 of U.P.Consolidation of Holdings Act, 1953 (hereinafter referred as to the U.P.C.H. Act) was filed by respondent No.2-Jant Singh, which was registered as Revision No.5. Deputy Director of Consolation vide order dated 31.7.2003 allowed the revision and disturbed the petitioners' chak. Hence this writ petition for the following relief:

"(a). issue a writ, order or direction in the nature of certiorary calling for the records of the case and quashing the order of Deputy Director of Consolidation, Etawah dated 31.07.2003 passed in Revision No.5-Jant Singh Vs. Sikander Singh and others.

b. issue a writ, order or direction in the nature of mandamus directing the respondent No.1 not to give the effect the judgment and order dated 31.07.20032 marked as Annexure N o.4 to this writ petition."

4. This court entertained the matter on 26.08.2003 and interim protection was granted on 24.11.2004 to the effect that no delivery of possession shall take place in respect to the disputed chak.

5. No counter affidavit has been filed by private respondent even after expiry of more than 22 years.

6. Learned counsel for the petitioners submitted that proposal was made by Assistant Consolidation Officer to the petitioner and respondent No.2 in proper manner. He submitted that proposal of Assistant Consolidation

Officer was maintained up to Settlement Officer of Consolidation stage. He placed the chak map in order to demonstrate that adjustment made to the petitioners as well as private respondent upto the stage of Settlement Officer of Consolation was just and proper but Deputy Director of Consolidation has disturbed the petitioners' Chak in arbitrary manner by making the shape of petitioner's chak as triangular. He further submitted that without substituting the legal heirs of deceased revisionist-Jant Singh, the revision has been allowed. He submitted that petitioners are in possession of chak of Settlement Officer of Consolidation stage as such the impugned revisional order should be set aside.

7. On the other hand, learned standing counsel for the state respondents submitted that no interference is required against the impugned order passed by Deputy Director of Consolidation in the allotment of chak proceeding. He further submitted that Deputy Director of Consolidation has recorded finding of fact for adjusting the chak of petitioner as well as private respondent to their plot as such writ petition is liable to be dismissed.

8. I have considered the argument advanced by learned counsel for the petitioner, learning Standing counsel for the state-respondents and perused the record.

9. There is no dispute about the fact that proposal made by Assistant Consolidation Officer was maintained up to Settlement of Consolation stage but in the revisional exercise of jurisdiction, the chak of the petitioners has been disturbed by Deputy Director of Consolidation.

10. It is material to mention that under Section-19 (1) (f) of U.P.C.H. Act it has been provided that tenure holders should be allotted chak in conformity with the process of rectangulation. The perusal of Section 19 of U.P. C.H., Act will be relevant which is as under:-

Section 19 of U.P.C.H. Act:- Conditions to be fulfilled by a Consolidation Scheme.—

(1) A Consolidation Scheme shall fulfill the following conditions, namely,—

(a) the rights and liabilities of a tenure-holder, as recorded in the register prepared under Section 10, are, subject to the deductions, if any, made on account of contributions to public purposes under this Act, secured in the lands allotted to him;

(b) the valuation of plots allotted to a tenure-holder, subject to deductions. if any, made on account of contributions to public purposes under this Act, is equal to the valuation of plots originally held by him:

Provided that, except with the permission of the Director of Consolidation, the area of the holdings allotted to a tenure-holder shall not differ from the area of his original holding or holdings by more than twenty five per cent of the latter;

(c) the compensation determined under the provisions of this Act or the rules, framed thereunder, is awarded—

(1) to the tenure-holder—

(i) for trees, wells and other improvements, originally held by him and allotted to another tenure-holders and

11) for land contributed by him for public purposes;

(2) to the Gaon Sabha, or any other local authority, as the case may be, for development, if any, effected by it in or over land belonging to it and allotted to a tenure-holder;

(d) the principles laid down in the Statement of Principles are followed;

(e) every tenure-holder is, as far as possible, allotted a compact area at the place where he holds the largest part of his holding:

Provided that no tenure-holder may be allotted more chaks than three, except with the approval in writing of the Deputy Director of Consolidation:

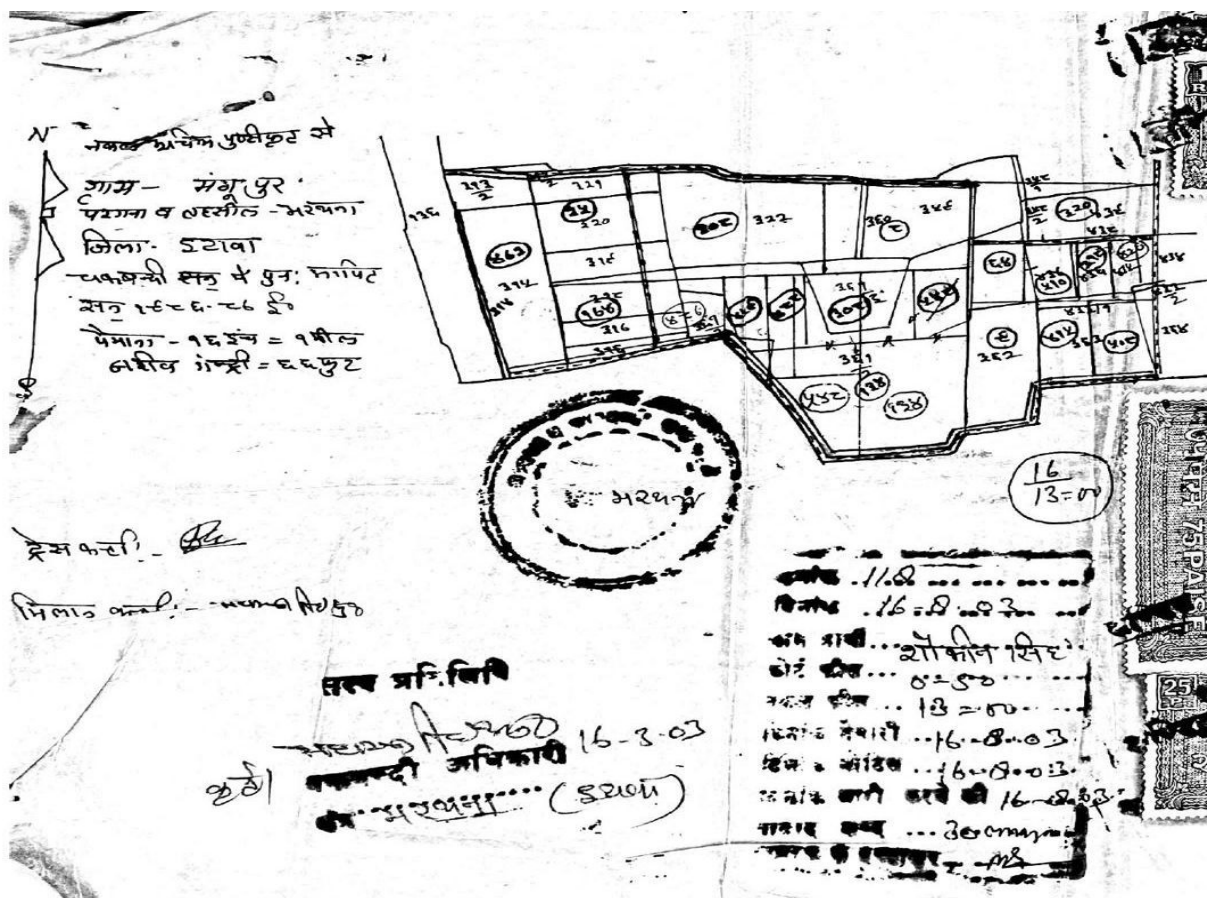
Provided further that no consolidation made shall be invalid for the reason merely; that the number of chaks allotted to a tenure-holder exceeds three; /

(f) every tenure-holder is, as far as possible, allotted the plot on which exists his private source of irrigation or any other improvement, together with an area in the vicinity equal to the valuation of the plots originally held by him there, and

(g) every tenure-holder is, as far as possible, allotted chaks in conformity with the process of rectangulation in rectangulation units.

(2) A Consolidation Scheme before it is made final under Section 23, shall be provisionally drawn up in accordance with the provision of Section 19-A.”

11. In order to appreciate the controversy involved in the matter, perusal of the chak map which is annexed as annexure No.S.A.II to the Supplementary affidavit dated 19.08.2003 will be relevant which is as under:



12. Perusal of chak map as quoted above fully demonstrate that all petitioners and respondent No.2 were rightly allotted chak up to Settlement Officer Consolidation stage but Deputy Director of Consolidation has disturbed the allotment in arbitrary manner by making the petitioners' chak triangular.

13. For last more than 22 years, no counter affidavit has been filed by private respondent which also demonstrate that private respondents are satisfied with the allotment made up to Settlement Officer of Consolidation as such there is no option except to maintain the allotment of Settlement Officer of Consolidation Stage.

14. Considering the entire facts and circumstances of the case, the impugned revisional order dated 31.07.2003 passed by Deputy Director of Consolidation is liable to be set aside and same hereby set aside.

15. The writ petition stands allowed and stage of Settlement Officer of Consolidation is hereby maintained.

16. No order as to costs.

Order Date :- 8.5.2025

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