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(2010) 5 ADJ 67 : (2010) 90 AIC 461 : (2010) **28 LCD 469** : (2010) 109 RD 713

ALLAHABAD HIGH COURT (LUCKNOW BENCH)

SIDDHNATH — Appellant

Vs.

DEPUTY DIRECTOR OF CONSOLIDATION, FAIZABAD — Respondent

(Before : S.N.Shukla, J)

Civil Miscellaneous Writ Petition No. 583 of 2009 (Cons.)

Decided on : 17-02-2010

- Uttar Pradesh Consolidation of Holdings Act, 1953 - Section 48

A. Consolidation of Holdings Act — Parties to proceedings — Impleadment — Revision — Quashing of order — Petitioners were parties in appeal stage, but not impleaded in revision — Opposite parties entered into collusive compromise, prejudicing petitioners' rights — Deputy Director of Consolidation refused to recall order citing lack of review jurisdiction — Held, petitioners were necessary parties to the revision — Application for impleadment and recall allowed — Orders of Deputy Director of Consolidation quashed — Matter remitted for fresh decision on merits after hearing all parties. (Paras 3, 4)

JUDGMENT

Shri Narayan Shukla, J.—Heard Mr. I.D.Shukla, learned counsel for the petitioners and Mr. N.N. Pandey, learned counsel for opposite parties 3 to 5.

2. The petitioners are aggrieved with orders dated 12.9.2000, 9.11.2000 and 21.8.2009 passed by the Deputy Director of Consolidation, Faizabad i.e. opposite party no.1.

3. By means of order dated 12.9.2000 the opposite party no.1 has ordered to record the names of opposite parties 3 to 5 in place of Smt. Rampyari widow of Mr. Brahmadeen in Khata Nos. 79 and 323, on the basis of compromise entered into between the parties,

whereas the petitioners' case is that they were parties in the proceedings till the stage of appeal before the Settlement Officer Consolidation, Faizabad, but in the revision preferred by the opposite parties they were not impleaded as party before opposite party no.1 whereas the parties entered into collusive compromise, which has become the part of the order of Deputy Director of Consolidation. It prejudices the right of the petitioners. The petitioners moved an application for recall of the order, but treating the same as application for review, it has not been entertained as the Deputy Director of consolidation has no jurisdiction to review the said order. It is not in dispute that the petitioners were not the party in the revision. Therefore, they moved the application for impleadment along with application for recall of the order which has been rejected.

4. I am of the view that since till the stage of appeal the petitioners were parties, they are necessary parties in the revision also, therefore, I hereby allow the application for impleadment and also the application for recall of the order passed by the Deputy Director of Consolidation and remit the matter to the Deputy Director of Consolidation, Faizabad to decide the revision afresh on merit after providing opportunity of hearing to the parties concerned including the petitioners. The orders dated 12.9.2000, 9.11.2000 and 21.8.2009 passed by the Deputy Director of Consolidation, Faizabad are hereby quashed.

5. In the result, the writ petition is allowed.