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ALLAHABAD HIGH COURT (LUCKNOW BENCH)

DEEP NARAIN SINGH AND OTHERS — Appellant

Vs.

AVADHRAJI AND OTHERS — Respondent

(Before : Shri Narayan Shukla, J)

Writ Petition No. 17 of 2010 (Cons.)

Decided on : 13-01-2010

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

A. Civil Procedure — Adjournments — Grounds for adjournment — Application for adjournment due to counsel's bereavement (death of father) — Denied by Deputy Director of Consolidation — Matter decided on merits in counsel's absence — High Court quashes the order, treating it as ex-parte, due to denial of reasonable opportunity for counsel to appear. (Paras 2, 3)

B. Administrative Law — Natural Justice — Right to be heard — Ex-parte orders — Order passed by Deputy Director of Consolidation in absence of counsel who was grieving the death of his father — High Court quashes the order, deeming it ex-parte, remitting the matter for fresh hearing with proper opportunity to parties — Emphasizes the importance of providing adequate opportunity of hearing. (Paras 2, 3)

C. Practice and Procedure — Remand — Expedited hearings — Directions for expeditious disposal — High Court remits the matter to the Collector (District Deputy Director of Consolidation) for re-hearing the revision — Directs parties and counsel to appear on a specific date without seeking further adjournments — Mandates day-to-day hearing to ensure expeditious conclusion, if no legal impediment exists. (Paras 3, 4)

JUDGMENT

Shri Narayan Shukla, J.—Heard Mr S.K.. Mehrotra, learned Counsel for the petitioners as well as Mr. R.P. Shukla, learned Counsel for the opposite parties.

2. The petitioners have challenged the order dated 18th of November, 2009, passed by Mr. J.P. Tewari, Deputy Director of Consolidation, Faizabad, on the ground that despite application for adjournment as petitioners' Counsel was busy in performing the rituals on the event of death of his father, he proceeded to fix the matter just after two days. Since the position was the same on that very date also the Counsel was not available he proceeded to decide the matter on merit.

3. The petitioners moved an application for transfer, therefore, treating the order as an exparte order, I hereby quash the same and remit the matter to the Collector, who is the District Deputy Director of Consolidation to hear the revision and decide the same after providing opportunity of hearing to the parties concerned.

4. Mr. R.P. Shukla, learned Counsel for the opposite parties raised objection that by seeking adjournment the petitioners are interested to linger on the matter for one or the other reason, therefore, I hereby provide that the learned Counsels for the respective parties, who are being represented through their Counsels before this Court, shall appear before the District Deputy Director of Consolidation on 28th of January, 2010 and without taking any adjournment on any other ground they shall submit their stand. Accordingly the authority concerned shall decide the revision expeditiously. If any legal impediment is there with the authority on 28th of January, 2010 he shall postpone the matter for the next date and accordingly he shall conclude the hearing of the case by continuing with daytoday hearing of the case.

5. With the aforesaid observations and directions the writ petition is disposed of finally.