

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. OF 2012
(Arising out of SLP(C)No.18211 OF 2008)

KAPIL & ORS.

.....APPELLANTS

VERSUS

STATE OF U.P. & ORS.

.....RESPONDENTS

With

CIVIL APPEAL No. OF 2012
(Arising out of SLP(C)No.20011 OF 2008)

O R D E R

Leave granted.

One of the grounds on which the appellants had challenged order dated 03.05.2007 passed by Sub Divisional Officer, Garhmukteshwar and order dated 27.12.2007 passed by Additional Commissioner, Meerut Division, Meerut was that before indirectly ordaining cancellation of allotment made in their favour pursuant to a resolution passed by the Land Management Committee, they had not given reasonable opportunity of hearing against the proposed action.

Learned Single Judge of the High Court who dealt with the writ petitions filed by the appellants negatived their challenge by observing that neither in the revision petition filed by the appellants nor in the writ petitions, the appellants had made an averment that the concerned authority had not given them notice and opportunity of hearing.

Learned counsel for the appellants invited our attention to the averments contained in para 10 of Civil Miscellaneous Writ Petition No.5154 of 2008 - Kapil and others vs. State of U.P. and others and Civil Miscellaneous Writ Petition No.5157 of 2008 -

Durgesh and others vs. State of U.P. and others and argued that the High Court committed grave error by dismissing the writ petitions on an erroneous assumption that the appellant had not raised the plea of violation of rules of natural justice.

Learned counsel for the respondents submitted that in view of the averments contained in para 10 of the two writ petitions, he is not in a position to support the observation of the learned Single Judge of the High Court that the appellant had not pleaded violation of rules of natural justice as one of the grounds as the cause for questioning the orders passed by the the Sub Divisional Officer, Garhmukteshwar and the Additional Commissioner, Meerut Division, Meerut.

We have carefully gone through the records and are convinced that the High Court was not justified in refusing to entertain the appellants' challenge to the orders passed by the Sub Divisional Officer, Garhmukteshwar and the Additional Commissioner, Meerut Division, Meerut on the premise that they had not questioned the orders adversely affecting their rights on the ground of violation of principle of audi alteram partem.

In the result, the appeals are allowed and the impugned orders are set side. The orders passed by the Sub Divisional Officer, Garhmukteshwar and the Additional Commissioner, Meerut

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Division, Meerut are also set aside and the matter is remitted to the Sub Divisional Officer, Garhmukteshwar, who shall be free to issue action oriented notice and pass appropriate order after giving reasonable opportunity of hearing to the appellants.

.....J.
(G.S.SINGHVI)

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master