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2026:AHC:136263

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 11303 of 1982

Satya
Narayan

.....Petitioners(s)

Versus

D.D.C. And
Others

.....Respondents(s)

Counsel for Petitioners(s)	: Awadh Behari Singh, Kedar Nath Mishra, Mahesh Singh, Ratnatkar Chaudhary, Siddharth Singh, T.P. Singh
Counsel for Respondent(s)	: Amrendra Singh, Arvind Kumar Singh, H.S.N.Tripathi, Kedar Nath Mishra, Neeraj Singh, Neeraj Tripathi, P.S.Tripathi, S.A.Gilani, S.C., Viveknand Yadav

With

WRIT - B No. - 14250 of 1982

Markandey

.....Petitioners(s)

Versus

D.D.C. And
Others

.....Respondents(s)

Counsel for Petitioners(s)	: Amrendra Singh, Kedar Nath Mishra, P.S. Mishra, S.A. Gilani
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WRIT - B No. - 1817 of 2024

Anand DevPetitioners(s)
Giri And
Another
Versus

State of U.P.Respondents(s)
and 7 Others

Counsel for Petitioners(s)	: Awadh Behari Singh
Counsel for Respondent(s)	: C.S.C., Kedar Nath Mishra, Satyendra Kumar Singh

Reserved On:22.4.2026

Delivered On:8.7.2026

Court No. – 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. A.B. Singh, learned counsel for the petitioner, Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Kedar Nath Mishra, learned counsel for the private respondent and Mr. Tarun Gaur, learned Standing Counsel for the State-respondents in Writ- B No.11303 of 1982.

2. Heard Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Kedar Nath Mishra, learned counsel for the petitioners and Mr. Tarun Gaur,

3. Heard Mr. A.B. Singh, learned counsel for the petitioners, Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Kedar Nath Mishra, learned counsel for the private respondent nos.4 to 8 and Mr. Tarun Gaur, learned Standing Counsel for the State-respondents in Writ- B No.1817 of 2024.

4. Common questions of law and facts are involved in all the three writ petitions, as such, all the three writ petitions are clubbed and heard together.

5. Brief facts of the case are that dispute relates to plots of khata nos.75 and 133 situated in village- Bahorpur, district- Deoria. Khata no.75 was bhumidhari khata and khata no.133 was sirdari khata. In the basic year of consolidation operation, the aforementioned khata in dispute were recorded in the name of petitioner- Satya Narain Giri along with the name of Surya Bhan Giri. Against the basic year entry of the khata in dispute, two sets of objections were filed under Section 9-A (2) of U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as "U.P.C.H. Act"). First set of objection was filed by respondent no.3- Markandey alleging that khata in dispute was the self acquired property in nature of Sir / Khud-kasht / grove, which was acquired by Dalmardan Giri and the name of Sehdev Giri as well as Mahadev Giri was inherited

Another set of objection was filed by respondent no.4-Udai Bhan as well as respondent no.5- Raj Bhan both are sons of Markandey alleging that khata in dispute was self acquired property of Dalmardan Giri, accordingly, respondent nos.4 & 5 are entitled to be recorded over khata in dispute having share 7/30. Claim of respondent nos.3, 4 & 5 was contested by the recorded tenure holder, namely, Satya Narain Giri and Surya Bhan Giri stating that respondent no.3 had become chela of Raghubir Jati who was head of the Chirraiyya Math, district- Deoria and he was no longer Giri, as such, legal status of respondent no.3 with the petitioner's family has come to an end. It was also contended by the petitioners before the Consolidation Officer that respondent no.3- Markandey was not Giri and so his sons who are respondent nos.4 & 5 to the instant petition were also not Giri and they are not successor or legal heirs of Raghunandan Giri. It was also contended by the petitioner before the Consolidation Officer that after death of Saha Dev Giri, the interest in the property did not devolve alone on Kunj Behari rather the same devolved on Kunj Behari, Raghunandan (petitioner's father) and Ram Lagan Giri. It was also contended on behalf of petitioners that after death of Kunj Behari, there was some dispute regarding the devolution of his share which has resulted in a mutation case between Raghunandan Giri and Ram Lagan Giri, accordingly, the said dispute was devolved

land in dispute and recorded over the disputed khata, as such, right of respondent no.3, if any, had ceased by adverse possession and ouster. Before the Consolidation Officer, the parties have adduced evidence in support of their cases. On behalf of petitioners a registered gift-deed dated 4.8.1941 executed by Raghunandan Giri in favour of petitioner no.1 was produced in which it has been mentioned that Markandey had become chela of Mahant Raghubir of Chirraiyya Math and since then he had no connection with the family of Raghunandan Giri. Consolidation Officer vide judgement dated 12.11.1974 decided the aforementioned title objection under Section 9-A (2) of U.P.C.H. Act and granted co-tenancy right in favour of respondent no.3 and decided the share of the parties. Objection of respondent nos.4 & 5 were rejected. Against the order of Consolidation Officer dated 12.11.1974, appeal under Section 11 (1) of U.P.C.H. Act was filed by petitioners before Settlement Officer of Consolidation. Respondent no.3 also filed an appeal under Section 11 (1) of U.P.C.H. Act as well as respondent nos.4 & 5 have also filed appeal under Section 11 (1) of U.P.C.H. Act before Settlement Officer of Consolidation. All the aforementioned three appeals were clubbed and heard together by Settlement Officer of Consolidation. Settlement Officer of Consolidation vide order dated 20.10.1975 allowed the appeal filed by petitioner setting aside the order of Consolidation Officer and

filed before Deputy Director of Consolidation. The Deputy Director of Consolidation vide order dated 16.9.1982 decided the revisions declaring the respondent no.3 as co-tenure holder of khata in dispute of 1/4 share. Hence, Writ-B No.11303 of 1982 has been filed on behalf of petitioner- Satya Narain Giri for the following reliefs:

"i) Issue a writ, order or direction in the nature of certiorary quashing the mudgments and orders dated 16.9.1982 passed by the Deputy Director of Consolidation (Opposite Party no. 1) and the order dated 12.11. 1974 passed by the Consolidation Officer-II (Opposite Party no.2) and contained in annexures 3 and 5 respectively.

(ii) Issue writ, order or direction in the nature of mandamus commanding the opposite parties not to give effect to the aforesaid judgments."

Writ-B No.14250 of 1982 has been filed on behalf of petitioner- Markandey for the following reliefs:

"a) issue writ direction and orders in the natureof certiorari calling for the record of the case and quash the order of the respondent no.2 dated 20-10-1975 in its entirety and the orders of the respondent nos. 1 and 3 dated 12-11-1974 and 16-9-1982 respectively to the extent they are against the petitioners."

Writ-B No.1817 of 2024 has been filed on behalf of petitioners- Anand Dev Giri And Another for the following reliefs:

Respondents in possession over the land in dispute in absence of any order passed in their favour within a fix period of time."

6. Parties have exchanged their pleadings in Writ- B Nos.11303 of 1982 & 14250 of 1982.

7. Learned counsel for the petitioner in Writ- B Nos.11303 of 1982 & 1817 of 2024 submitted that respondent no.3/ Markandey became chela of Mahant Raghubir of Chirraiyya Math, as such, he cannot be granted co-tenancy right in the family of Raghunandan Giri as respondent no.3/ Markandey will get succession as chela of Mahant Raghubir of Chirraiyya Math. He further submitted that in Suit No.10 of 1910, a decree has been passed that Raghubir Jati had ceased to be member of Giri family after he became Mahant Raghubir of Chirraiyya Math and the same principle was applicable in the case of respondent no.3. He further submitted that Settlement Officer of Consolidation has rightly refused the co-tenancy right to respondent no.3 by allowing the appeal filed by petitioner under Section 11 (1) of U.P.C.H. Act. He further submitted that the Consolidation Officer as well as Deputy Director of Consolidation has failed to take into consideration the family settlement as well as gift-deed executed by Raghunandan Giri in the year 1941, which was acted upon in accordance with law. He further submitted that the evidence on record has been misread by the Consolidation Officer as

No.1817 of 2024 in order to demonstrate that there is no illegality in exercise of jurisdiction by the Settlement Officer of Consolidation refusing co-tenancy right to respondent no.3. He placed reliance upon the following judgements in support of his argument:

"i. 2024 Law Suit (Del) 1349, Bhaktivedanta Book Trust India vs. WWW Friendwithbooks Co.

ii. 1931 LawSuit (All) 5, Chaube Madho Rao vs. Chaube Gur Narain.

iii. (1981) 3 Supreme Court Cases 689, Shri Krishna Singh vs. Mathura Ahir and others."

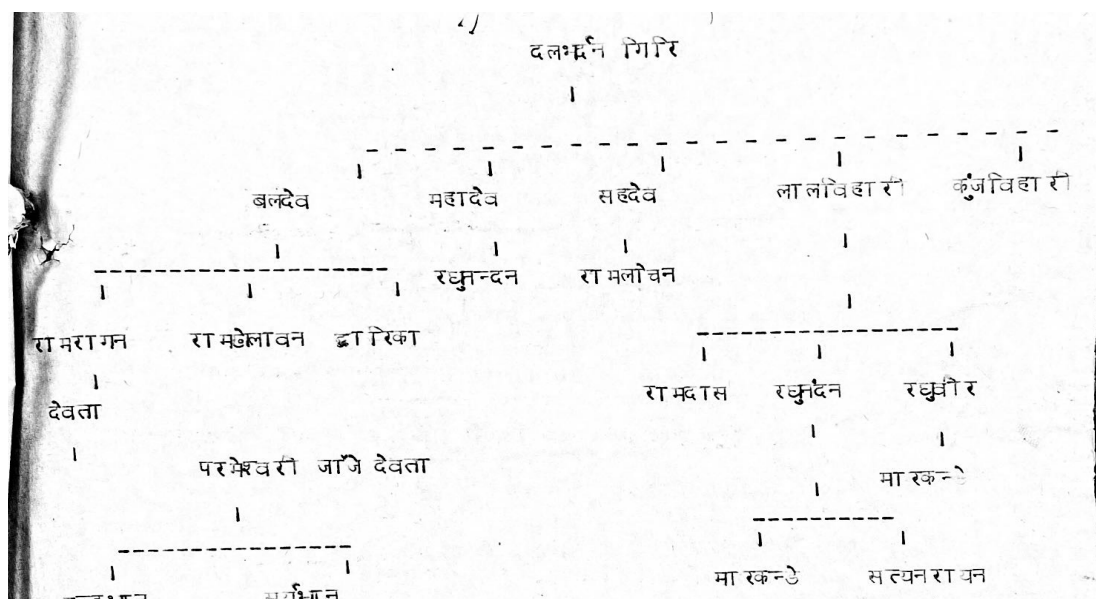
8. On the other hand, Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Kedar Nath Mishra, learned counsel for the private respondent in Writ- B Nos.11303 of 1982 & 1817 of 2024 as well as learned counsel for the petitioner in Writ -B No.14250 of 1982 submitted that the decree alleged to be passed in Civil Suit 10 of 1910 was fraudulent, as such, no reliance can be placed upon the same. He further submitted that the title objections were rightly filed by private respondent claiming co-tenancy right being member of the family. He further submitted that the Consolidation Officer has rightly granted co-tenancy right to respondent no.3/ Markandey but Settlement Officer of Consolidation has illegally

accordingly, Writ- B No.14250 of 1982 has been filed on behalf of Markandey, Uday Bhan and Raj Bhan for granting relief to respondent nos.3, 4 & 5 in accordance with law. He further submitted that there is no provision in Hindu Shastra that once person renounced the world, cannot come back and lead domestic life. He further submitted that the share of the petitioners of Writ- B No.14250 of 1982 has not been rightly determined, as such, the matter should be sent back before Deputy Director of Consolidation to decide the share of the parties in proper manner. He further submitted that the averment made in Writ- B No.14250 of 1982 has not been denied by filing proper counter affidavit, as such, Writ- B No.14250 of 1982 should be allowed treating the averment made in the writ petition as admitted. He further submitted that the Writ-B No.1817 of 2024 filed for mandamus cannot be entertained and liable to be dismissed.

9. Mr. Neeraj Singh, learned counsel appearing on behalf of respondent nos.6, 7, 8, 9 & 10 in Writ- B No.11303 of 1982 and on behalf of respondent nos.5, 9, 10, 11 & 12 in Writ- B No.14250 of 182 submitted that Writ- B No.11303 of 1982 should be dismissed. He further submitted that there is no illegality in exercise of jurisdiction by the consolidation authorities declaring 1/2 share of Surya Bhan Giri in disputed khata nos.75 & 133.

11. There is no dispute about the fact that the dispute under Section 9-A (2) of U.P.C.H. Act filed against the basic year entry was decided by the Consolidation Officer granting co-tenancy of respondent no.3 but in appeal the order of Consolidation Officer was set aside and claim of co-tenancy setup by respondent nos.3, 4 & 5 was refused. There is also no dispute about the fact that the revision filed by respondent nos.3, 4 & 5 was allowed maintaining the order of Consolidation Officer granting co-tenancy in favour of respondent no.3.

12. In order to appreciate the controversy involved in the matter, family pedigree as mentioned in the order of Consolidation Officer will be necessary which is as under:



13. Perusal of the issues framed before the Consolidation Officer will be also necessary, which are as under:

"1-क्या आपत्तिकर्तागण तथा प्रतिवादीगण मुफ्तर्का हिन्दू खानदान के सदस्य थे यदि थे तो उसका प्रभाव?

2-क्या मारकन्दे को सहभूमिधर थे और उनका कब्जा चला आ रहा है?

3-क्या उदयभान राजभान गिरि अपने पिता के साथ सह भूमिधर हुए और उनका कब्जा दखल चला आ रहा है?

4-क्या मारकन्दे गिरि है अथवा नहीं?

5-क्या मारकन्दे गिरि दवाभर्दन के खानदान से अपना सम्बंध बैरिया चिरड्या के यहां हो जाने के बाद समाप्त कर लिया?

6-क्या कारकने के लडके उदयभान पति है गिरि?

7-क्या कुंजबिहारी रघुनन्दन रामलगन सहदेव, महादेव गिरि के हिस्से के वारिस थे अथवा कुंजबिहारी गिरि सहदेव महादेव के तनहा वारिस थे

8-क्या रामवचन रमेष गनेष कमला आदि ज्योति कुंज अन्य खातेदारान के साथ विवादित भूमि के सह खातेदार है?

9-क्या मारकन्दे गिरि का स्वस्थ है?

10-क्या कुंजबिहारी रघुनन्दन और रामलगत गिरि के बीच में खानदानी इन्तजाम के अनुसार काबिज दखील है?

11-क्या रघुनन्दन ने अपना हिस्सा सत्यनारायन गिरि के हक में कर दिया यदि हो तो उसका क्या प्रभाव है?

12-क्या मारक के उदयभान गिरि राजमान गिरि के स्वत्व के पिता है?

15-क्या मारकन्डे का स्वत्व बैरिया किरड़या मठ के महंत हो जाने के कारण समाप्त हो गया है?

16-क्या सूर्यभान सत्यनारायन गिरि का हिस्सा 1/2 बराबर बराबर है क्या वह तनहा खातेदार है?

17-क्या मारकन्डे उदयभान रामजान का स्वतत्त्व मियाद के बाहर है?

18-क्या सूर्यभान सत्यनारायन व स्वतव धारा 180 यू० पी० ज० एक्ट और धारा 210 जेड एक्ट के अन्तर्गत पूर्ण हो चुका है, वाद संख्या 359, 360 कन्सालिडेड किया गया वाद संख्या 359 मुख्य वाद रहेगा?"

14. Perusal of the judgement and decree passed in the suit no.10 of 1910 will be also necessary, which are as under:

"In the Court of Addl. Sub-Judge of Gorakhpur Present: B. Harbendhan Lal Saheb, Addl. Sub Judge

Suit No. 10 of 1910

Goshain Raghunandan Giri. ----- Plaintiff.

Versus

Mahanth Raghubir Jati. ----- -- Defendant.

The suit is for a declaration that the plaintiff is the owner of and in possession of the property in dispute and that the defendant has nothing to do with it.

The parties to the suit are brothers. They lived jointly and were in possession of the property in dispute as members of the joint Hindu family. Three year ago when defendant left to his home, gave up his connection with his family, left the Grihast Ashram and became a Sanyasi. In Magh 13/14 (January, 1910), he became Chela and lives in Math. Plaintiff allegation is that all the rights which the defendant had in the property was extinguished and the plaintiff alone is in possession; that one Mahabir defendant's karinda interferes in plaintiff's possession hence this suit.

The defendant says that he cannot be deprived of the property although he left the Girhast

FINDINGS

It is admitted that the defendant became a Sanyasi has retired from the world and interest into a religion's life. It is also admitted that he has left all connections with his family and lives in a Math and has given up Girhast Ashram and his connections with his family. The defendant also admits that the plaintiff is in possession of all the property. There is nothing to show the from the time he entered a religions life, he ever remained in possession of any portion of the property and managed it. Defendant's retirement appears to be an absolute one and amounts to a civil death. He has of his own accord abandoned all earthly interests. The facts of the case are admitted, they absolute abandonment by the defendant of all secular property of a complete and final withdrawal from earthly affairs. The defendant having renounced the world all the property rested in him passed to his heirs or to the other embers of the joint family 1e. the Craigtill. A sanyasi can hold no property according to Hindu Law. He cannot get it even if he returns to the world again (Ghose Hibdoo has 2nd Edition P. 224. 781 Mayne Hindu Law. pp 677, 801, 816 - 7th Edition). My finding on both issues is against the defendant and I hold that the plaintiff is entitled to the relief claimed.

The plaintiff's claim is therefore decreed with costs.

Sd / Illegible

03.08.1910"

15. Perusal of the civil Court judgement / decree dated 3.8.1910 as quoted above fully demonstrate that Raghubir (father of Markandey) had become Sanyasi as such, Raghubir was deprived to inherit joint family property and suit filed by Raghunandan (father of Satya Narain) was decreed.

16. Settlement Officer of Consolidation considering the entire aspect of the matter has allowed the appeal and refused the co-tenancy granted to Markandey recording finding of fact that co-tenancy cannot be allowed

cannot be given co-tenancy after becoming chela of the Mahant in the Math.

17. Considering the categorical finding recorded by the Settlement Officer of Consolidation as well as the judgement and decree passed by the Civil Court in Suit no.10 of 1910, which has attained finality, respondent no.3 as well as respondent nos.5 & 6 who are sons of respondent no.3 cannot be given co-tenancy as respondent no.3 become chela of Mahant of the Math.

18. Considering the entire facts and circumstances of the case, the impugned revisional order dated 16.9.1982 passed by Deputy Director of Consolidation in Writ- B No.11303 of 1982 is liable to be set aside and same is hereby set aside.

19. The *Writ- B No.11303 of 1982 is accordingly allowed* and order passed by the Settlement Officer of Consolidation dated 20.10.1975 is hereby maintained.

20. *In view of the above, the Writ- B No.14250 of 1982 filed by petitioner- Markandey is dismissed considering the fact that Writ- B No.11303 of 1982 filed by Satya Narain has been allowed on merit maintaining the order of Settlement Officer of Consolidation.*

*with the possession of the petitioners with respect to the khata in dispute
in any manner.*

22. No order as to costs.

July 8, 2026
Rameez

(Chandra Kumar Rai,J.)