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HIGH COURT OF JUDICATURE AT ALLAHABAD

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WRIT - B No. - 9029 of 1981

Ram Gopal

.....Petitioner(s)

Versus

A.D.C.

.....Respondent(s)

Counsel for Petitioner(s) : Rajeev Trivedi, Ram Raj Prajapati, Rk Pandey, Shashi Kant Shukla, Sk Shukla

Counsel for Respondent(s) : Harihar Prasad Tripathi, Nb Nigam, R.dwivedi, SC, Vs Dwivedi

Reserved on 8.4.2026

Delivered on 1.7.2026

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Sri Shashi Kant Shukla, learned Senior Counsel assisted by Sri Rajeev Trivedi, learned Counsel for the petitioners, Sri Ram Raj Prajapati, learned Counsel for private respondents and learned Standing Counsel for the State respondents.

2. Brief facts of the case are that dispute relates to share of the parties in respect to plots of khata nos. 20, 24, 39, 40, situated in village Kumhaupur, Pergana- Sumerpur, District Hamirpur. The particulars of plots in respect to aforementioned khata nos. 20, 24, 39, 40, basic year entry and objection/claim filed by the parties under Section 9-A(2) of the U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the "U.P. C.H. Act") for their share, are mentioned in paragraph nos. 2 to 8 of the writ petition. On the basis of the objection/claim filed by the parties, Consolidation Officer registered four cases which are as under:-

“(a) Case No.500 (Girand Singh vs. Balbir Singh)

(b) Case No.559 (Girand Singh vs. Balram Singh)

(c) Case No.503 (Ram Narain Singh vs. Ram Pyari)

(d) Case No.504 (Chandrabhan Singh vs. Sukhdeo)”

Consolidation Officer framed issues in the aforementioned cases and parties have adduced evidences in support of their cases. Consolidation Officer vide order dated 13.12.1973 decided the objection/case, deciding share of the parties. Against the order of the Consolidation Officer dated 13.12.1973 five appeals under Section 11(1) of the U.P. C.H. Act were filed before the Settlement Officer of Consolidation which were registered as under:-

“(a) Appeal No.330 filed by Ram Pyari

(b) Appeal No.332 filed by Girand Singh

(c) Appeal No.360 filed by Sheo Prasad

(d) Appeal No.361 filed by Sheo Prasad

(e) Appeal No.363 filed by Sheo Prasad”

Assistant Settlement Officer of Consolidation heard the aforementioned appeals and vide order dated 2.9.1974, allowed the appeals of Sheo Prasad and Ram Pyari and dismissed the appeal filed by Girand Singh and Others. Against the appellate order dated 2.9.1974, 9 revisions under Section 48 of the U.P. C.H. Act were filed before the Director of Consolidation which are as under:-

“(i) Revision No.1369/23 (Ram Gopal Singh and Others vs. Sukhdeo Singh and Others)

(ii) Revision No.1379/26 (Subedar Singh and Others vs. Mst. Ram Pyari and Others)

(iii) Revision No.1380/27 (Subedar Singh and Others vs. Mst. Ram Pyari and Others)

(iv) Revision No.1381/28 (Subedar Singh and Others vs. Mst. Ram Pyari and Others)

(v) Revision No.1382/29 (Mst Ram Pyari vs. Balbir Singh and Others)

(vi) Revision No.1545/37 (Balbir Singh and Others vs. Mst. Ram Pyari and Others)

(vii) Revision No.1633/42 (Mst Ram Pyari vs. Subedar Singh and Others)

(viii) Revision No.2322/121 (Maharaj Singh vs. Mst Ram Pyari Devi and Others)

(ix) Revision No.2323/122 (Smt. Ghassi Kunwar vs. Shiv Prasad and Others)”

The aforementioned revisions were clubbed and heard together. The Assistant Director of Consolidation vide order dated 20.4.1981 dismissed the Revision Nos. 1369/23, 1382/29, 1633/42, 1545/37 and allowed the Revision Nos.1379/26, 1980/27, 1381/28, 2322/121 and 2323/122.

Hence, Writ B No.10204 of 1981 has been filed for the following relief:-

“(a) Issue a writ, order or direction in the nature of writ of certiorari, quashing the judgments and orders passed by respondent nos. 1, 2 and 3 (Annexure Nos. 3, 2 & 1 respectively.

(b) Issue a writ, order or direction in the nature of writ of mandamus, directing the respondent nos. 1, 2 & 3 to allot the petitioner, 1/3rd share or such other share which this Hon’ble Court deems fit and proper.”

Writ B No.9029 of 1981 has been filed for following relief:-

“Issue a writ, order or direction in the nature of writ of certiorari, quashing the orders dated 2.9.1974 (Annexure 5) and 20.4.1981 (Annexure 6) passed by respondent nos. 2 and 1 respectively and the order dated 13.12.1973 (Annexure 4), passed by the respondent no.3 so far as it relates to khata Nos. 39 & 40.”

Writ B No.9020 of 1981 has been filed for following relief:-

“Issue a writ, order or direction in the nature of writ of certiorari, quashing the orders dated 2.9.1974 (Annexure 5) and 20.4.1981 (Annexure 6) passed by respondent nos. 1 and 2 respectively and the order dated 13.12.1973 (Annexure 3), passed by the respondent no.3 so far as it relates to khata Nos. 20.”

Writ B No.9019 of 1981 has been filed for following relief:-

“Issue a writ, order or direction in the nature of writ of certiorari, quashing the impugned orders dated 2.9.1974 (Annexure 2, passed by respondent no.2) and 20.4.1981 (Annexure 3, passed by respondent no.1).”

3. This Court admitted all the abovementioned four writ petitions and granted interim orders.

4. The parties have exchanged their pleading.

5. Writ-B No. 10204 of 1981 was heard on merit and same was dismissed by judgment dated 30.01.2026.

6. The instant petition was dismissed for non-prosecution on 30.01.2026 but on the restoration application, the instant petition has been restored to its original number and heard afresh.

7. Learned Senior Counsel for the petitioners submitted that Rukiya inherited the land belonging to Shri Bhawani Deen Singh in her lifetime as limited owner, as such she could surrender her interest in favour of her sons namely, Sultan Singh and Girand Singh, her nearest reversioners under the personal law applicable on the relevant point of time. He further submitted that contesting respondents have admitted the share and possession of Sultan Singh and Girand Singh, but Assistant Director of Consolidation has failed to consider the admission of contesting respondents, which was neither withdrawn nor explained. He further submitted that the case of will was neither raised nor argued before the Assistant Director of Consolidation or any other Consolidation authority as such, the impugned order cannot be sustained in the eye of law. He further submitted that oral and documentary evidence on record fully demonstrate that Sultan Singh and Girand Singh were sons of Bhawani Deen Singh, as such they were entitled to inherit the land belonging to them but the Revisional Court has failed to consider the oral and documentary evidence in accordance with law. He submitted that the name of Sultan Singh and Girand Singh were ordered to be recorded in place of Bhawani Deen Singh vide order dated 15.05.1947 passed by Sub Divisional Officer, as such the same cannot be ignored by the consolidation authorities while deciding the title dispute under the U.P.C.H. Act. He further submitted that petitioner's claim under Section 9-A(2) of U.P.C.H. Act cannot be refused on the ground that earlier suits were dismissed vide order dated 20.12.1971, as the suits were not dismissed on merit. He further submitted that in the objection filed before Consolidation Officer against the basic year entry, all plots were mentioned in proper manner, but impugned orders have been passed by Revisional Court as well as Appellate Court in an illegal and arbitrary manner. He submitted that all the impugned orders should be set aside and claim of petitioner under Section 9-A(2) of U.P.C.H. Act should be allowed.

8. On the other hand, Learned Counsel for private respondents submitted that there is no illegality in the exercise of jurisdiction by the consolidation authorities so far as the claim of the petitioner is concerned. He submitted that finding of fact has been recorded by the Deputy Director of Consolidation while passing the impugned orders, as such no interference is required in the matter.

9. Learned Standing Counsel for the State respondents submitted that in view of the findings recorded by consolidation authorities, no interference is required and the instant writ petition is liable to be dismissed.

10. I have considered the arguments advanced by Learned Counsel for the parties and perused the record.

11. There is no dispute about the fact that title objections under Section 9-A(2) of the U.P. C.H. Act, title appeals under Section 11(1) of the U.P.C.H. Act and title revisions under Section 48 of the U.P. C.H. Act have been decided under the impugned orders, determining the share of the parties in respect to khata in dispute.

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

13. . The perusal of relevant portion of order of Deputy Director of Consolidation will be necessary, which is as under:

" निगरानी संख्या 1369 / 23, राम गोपाल सिंह आदि बनाम सुखदेव सिंह आदि जो कि 10p0v0p0 अपील संख्या 332 के विरुद्ध खाता संख्या 20, 24 और 40 के विषय में दायर की गई है। ftlesa budk मुख्यre कथन है कि 10p0v0p0 us कोई संकेत vius vkns'k esa olh;rukek dk नहीं किया और न ही उसका विवेचन किया है, यद्यपि पूर्व निर्णित वादों में पक्षकारों द्वारा वसीयतनामे को स्वीकार भी किया गया था। वसीयतनामे के अनुसार निगरानीकर्तागण वारिस हुए हैं। यह भी कहा गया कि बंटवारे से संबंधित आदेश अंतिम नहीं है तथा सह-खातेदारों के अधिकार समाप्त नहीं हुए हैं। उनका आराजी निजाई 1/3 भाग है तथा वे सह-खातेदार हैं। पत्रावली का अवलोकन करने के पश्चात यह स्पष्ट है कि ना तो p0v0 ds le{k vkSj u rks 10p0v0p0 ds gh le{k olh;rukek ij dksbZ cgl ;k lcwr vnkyr esa nh x;h A dksbZ ,slk lcwr vnkyr esa ugha gS जिससे यह सिद्ध हो सके कि भOkuhnihu flag को लड़की के लड़के तथा भOkuhnihu की लड़की श्रीमती :fd;k भOkuhnihu की मृत्यु के बाद जीवित थी। यह Hkh irk pyrk gS fd Hkokuhnihu flag dh मृत्यु ds ckn श्रीमती :fd;k ने हिस्सा लेने से इंकार dj fn;k tcfd ;g ,d ek= okfjl Fkh A यह सिद्ध gS कि QjhdSu ds chp olh;rukek gqvks tks fd fnukad 25.02.1927 का है। इससे यह सिद्ध है कि श्रीमती :fd;k ने हिस्सा लेने से इंकार किया है। वसीयतनामे के अवलोकन से यह सिद्ध है कि संबंधित ग्राम dqEHkiqj में कोई जमीन नहीं दी गयी और ना ही उसका कोई उल्लेख है। यहाँ तक कि {k.k Hkr dks Hkh यह मान के चला जाए कि इस ग्राम में जमीन लड़कों को देने के लिए लिखी भी गयी, उल्लेखनीय है कि इसका इंदराज कभी भी अभिलेखों में नहीं हुआ। यही कारण है कि रजिस्टर मलकाना में इसका उल्लेख नहीं है ;gkW यह भी उल्लेखनीय है कि संबंधित ग्राम dqEHkiqj dbZ मोहाल है A blh eqgky tokgj esa जिससे संबंधित विवादित खाता संख्या 20 भी है। वही अन्य खाते भी हैं जिसमें Hkxokunhu flag का नाम दर्ज है जिसकी पुष्टि खाता [ksoV 1, 2, 3, 4, 5 में होता है। हर दशा में यह सिद्ध है कि इसका कोई इंदराज अभिलेखों में नहीं है। पत्रावली से यह भी स्पष्ट है कि सबूत का अभाव इस बिंदु पर रहा है, क्योंकि दिनांक 20.12.1971 को खारिज होने के बाद सक्षम अधिकारी के समक्ष कोई pkjktksgh नहीं की गयी। vr,o dksbZ lcwr ckdh ugha jgrs gSA हर दृष्टिकोण से पुनः परीक्षा करने के पश्चात निगरानी खारिज होने योग्य है। "

14. Perusal of revisional order as quoted above fully demonstrates that the case of the petitioners-Ram Gopal Singh and others was considered by Deputy Director of Consolidation, recording finding of fact that order dated 20.12.1971 passed against the petitioners has attained finality against the petitioners, as such the claim of the petitioners cannot be allowed. The Consolidation Officer as well as Settlement Officer of Consolidation have also examined the case of petitioners while deciding the dispute relating to share between the parties.

15 Considering the findings of fact recorded by consolidation authorities, there is no scope for interference by this Court against the impugned orders passed by consolidation authorities in the proceeding under Section 9-A(2) of U.P.C.H. Act.

16 No interference is required in the matter.

17. The instant writ petition is dismissed.

18. No order as to costs.

(Chandra Kumar Rai,J.)

July 1, 2026

PS*