



2026:AHC:9495

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 4848 of 2025

Jawahar Lal

.....Petitioner(s)

Versus

Deputy Director Of Consolidation And 10 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Pramod Kumar Singh, Tripathi Bhool Gaya Bhai
Counsel for Respondent(s)	: C.S.C.

Court No. - 54

HON'BLE DINESH PATHAK, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents no. 1, 2 and 3 at the admission stage of the instant writ petition.

2. The petitioner has invoked the extraordinary jurisdiction of this court under Article 226 of the Constitution of India assailing the order dated 28.06.2025 passed by the Deputy Director of Consolidation (in brevity 'DDC') in Revision No.000414 of 2024 (Jawahar Lal Vs. Asharfi and others) affirming the order dated 12.06.2013 passed by the the Consolidation Officer (in brevity 'CO') in Case No.278 under Section 9A(2) of UP Consolidation of Holdings Act (in brevity, 'UPCH Act'), whereby amendment application moved by the contesting respondent nos. 4, 5 and predecessor in interest of respondent nos. 6 to 11 was allowed subject to payment of cost of Rs. 500/- (five hundred only).

3. Facts culled out from the record are that both the parties are collateral descendants from the common ancestor Suraj, and were recorded over khata no.16. All co-sharers filed separate objections under Section 9A(2) of UPCH Act seeking separation/partition to the extent of their respective shares in the property in question. In furtherance thereof Asharfi (respondent no.4), Baiju (respondent no.5), Dwarika (predecessor in the interest of respondent nos. 6 to 11) and one Piyare Lal filed a common objection dated 20.10.1992 under Section 9A(2) of UPCH Act claiming their joint 1/4 share. The Assistant Consolidation Officer, vide its order dated 04.11.1992, referred the matter before the CO for adjudicating the shares of all the co-sharers. The CO, vide

order dated 20.01.1993, decided the shares of the parties in the property in question. Being aggrieved thereby, Baiju, Piyare, Asharfi and Dwarika sons of Jangal filed restoration application dated 06.12.1995 seeking recall of order dated 20.01.1993. The CO allowed the restoration application, recalled its order dated 20.01.1993 and restored the proceedings to its original number. During pendency of the proceedings, the contesting respondents filed an amendment application dated 20.05.2006 claiming 1/3 share in the property in question. The CO, vide order dated 12.06.2013, allowed the amendment application. Having been aggrieved by the order allowing the amendment application, the present petitioner preferred a revision under Section 48 of the UPOCH Act. The DDC, vide order dated 28.06.2025, dismissed the revision affirming the order passed by the CO, which is under challenge before this Court.

4. Learned counsel for the petitioner, while assailing the orders passed by the CO and the DDC, has advanced two folds submissions; first that the amendment application was filed at a highly belated stage, therefore, same ought to have been dismissed on the ground of laches; and second, that by way of amendment application, the contesting respondents withdrew their earlier admission with regard to the shares of the parties, inasmuch as they initially admitted 1/4 share, but subsequently claimed 1/3 share. Learned counsel for the petitioner has emphasized that, in the interregnum, after the order dated 20.01.1993, the contesting respondents filed another objection under Section 9A(2) of the UPOCH Act, which was dismissed by order dated 27.01.2006; thus, the amendment application in the earlier proceedings for the same cause of action was not sustainable in the eyes of law.

5. I am not in agreement with the first submission advanced by learned counsel for the petitioner that the amendment application was filed after prescribed period of limitation. No specific provisions has been provided under the UPOCH Act for the purposes of moving an amendment application in the pleadings either of the initial stage or at the stage of appeal or revision. The general principles of the Code of Civil Procedure (CPC) may, at best, be applied to the amendment matters, although the provisions of CPC are not strictly applicable to the proceedings enunciated under the UPOCH Act. Hon'ble Full Bench judgment of this Court in **Bijai Narain Singh and others vs. State of UP and others, AIR 1970 All 241 (FB)** held that it could not be held that all the provisions of the CPC have been made applicable to the proceedings under the UPOCH Act. Order VI Rule 17 of

CPC provides that the court may at any stage of proceedings allow the parties to alter or amend their pleadings, subject to proviso that no application for amendment shall be allowed after the trial has commenced. It is apposite to note, as emerged from the record, that the objections filed by all co-sharers, including the objection dated 20.10.1992 filed by the contesting respondents, were referred to the CO vide order dated 4.11.1992 passed by the Assistant Consolidation Officer. The CO, in turn, passed the order dated 20.01.1993 in a perfunctory manner, merely indicating the shares of some of the co-sharers in khata no.16. There is no discussion as to how parties are entitled for the shares as mentioned in the order. Moreover, aforementioned order dated 20.01.1993 passed by the CO, deciding the shares of the parties, was subsequently recalled and the original proceedings under Section 9A(2) of the UPOCH Act stood restored. However, in the meantime, a fresh objection under Section 9A(2) of UPOCH Act filed by the remaining co-sharer, including the contesting respondents, against the petitioner, was dismissed vide order dated 27.1.2006 on the ground that the earlier objection under Section 9A(2) of UPOCH Act had already been decided by the order dated 20.01.1993.

6. There is nothing on the record to demonstrate that the present petitioner or his predecessor filed any detailed objection in the proceedings under Section 9A(2) of UPOCH Act instituting at the behest of the contesting respondents. It appears that after restoration of the proceedings normal dates were being fixed for evidence of the parties. However, during this period, contesting respondents moved amendment application to clarify their shares in the property in question on account of death of the two co-sharers, namely, Jagai and Piyare Lal. Amendment application was moved on 20.05.2006, soon after the order dated 27.01.2006, whereby the subsequent objections under Section 9A(2) of UPOCH Act was dismissed. Therefore, in the peculiar facts and circumstances of the present case, the amendment application moved on behalf of the contesting respondents cannot be discarded on the ground of laches.

7. I am also skeptical of the second submission advanced by learned counsel for the petitioner which pertains to the alleged withdrawal of an admission made by the contesting-respondents qua shares of the parties. A perusal of record evinces that in objection dated 20.10.1992 under Section 9A(2) of UPOCH Act, the contesting respondents along with one Piyare Lal, claimed a joint 1/4th share in khata no.16; moreover, they explained their individual

shares to be $1/24^{\text{th}}$ each. It would be apposite to refer to the genealogical tree of the parties as mentioned in the amendment application, which shows that Suraj (common ancestor) was survived by three sons, namely, Badal, Panchu and Bhagi. Petitioner is descendant from Panchu, whereas the contesting respondents are descendant from Bhagi. Needless to say that the petitioner is the son of Dhanni, who was son of Panchu, while the contesting respondents are sons of Jangal, who was the son of Bhagi. The heirs and legal representatives of Badal are not arrayed in the cause title of the instant writ petition. The amendment application was filed owing to subsequent event, to wit, the death of Jagai (brother of Jangal) and Piyare, (4th son of Jangal). It appears that owing to aforesaid two deaths, descendants in the branch of Bhagi, the amendment application was moved by the contesting respondents to recalibrate and explain their respective shares in khata no.16. In the original objection under Section 9A(2) of UPOCH Act, all four sons of Jangal, namely, Baiju, Piyare, Asharfi and Dwarika, had sought relief for their joint share to the extent of $1/4^{\text{th}}$ share of Bhagi. At a later stage, they sought amendment owing to death of Jagai and Piyare. Present petitioner failed to demonstrate how he has been displaced from the admission made by the contesting respondents. At this juncture, it would not be befitting to discuss the shares of the parties. The pedigree given in the amendment application and shares of the co-sharers in the property in question is a subject matter of final adjudication before the CO. The amendment application, having being filed on account of subsequent event, to wit, death of Piyare and Jagai, cannot be construed as a withdrawal of any admission earlier made by the contesting respondents. Rather, the contesting respondents have merely attempted to explain or recalibrate their shares in changed factual scenario. Needless to say that in original proceedings the sons of Jangal had claimed their individual shares to the extent of $1/24^{\text{th}}$ each; whereas in the amendment application they claimed their individual shares to the extent of $1/9^{\text{th}}$ share and accordingly, sought correction of their joint share to the extent of $1/3^{\text{rd}}$ share in the property in question. The CO as well as the DDC have observed that all the applicants before the CO are illiterate persons who merely put their thumb impression on the application.

9. In this conspectus, as above, I do not find any justifiable ground to entertain the instant writ petition or to interfere with the orders passed by the CO and the DDC. There is no illegality, irregularity, perversity, infirmity or ambiguity in the orders impugned so as to warrant the indulgence of this

Court in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. There is nothing on the record to demonstrate as to how the present petitioner has been prejudiced, or if there is any likelihood of causing miscarriage of justice to him, owing to the orders impugned.

10. Resultantly, instant writ petition, being misconceived and devoid of merits, is **dismissed** with no order as to the costs.

11. Before parting with the matter, learned counsel for the petitioner has urged for interim protection during pendency of the original proceedings under Section 9A(2) of UPCH Act. Needless to say that the petitioner is at liberty to move an appropriate application before the CO for interim protection during pendency of the proceedings under Section 9A(2) of UPCH Act.

12. The CO is expected to decide the objection as early as possible as per the direction issued by the DDC vide order dated 28.06.2025.

January 14, 2026
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(Dinesh Pathak,J.)