



2026:AHC:20375

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 179 of 2026

Vipin And Another

.....Petitioner(s)

Versus

Deputy Director Of Consolidation And 8 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Rajjan Kumar, Tara Chand Kaushal
Counsel for Respondent(s)	:	G.A.

Court No. - 54

HON'BLE DINESH PATHAK, J.

1. Heard learned counsel for the petitioners and the learned Standing Counsel for the State-respondents.

2. Perusal of record evinces that, having been aggrieved by the order dated 15.10.2008 passed by the Consolidation Officer, one Baijnath filed a restoration application dated 02.02.2012. During the pendency of said restoration application, present petitioners moved an application raising a question with respect to the genuineness of the person who had filed the restoration application. The Consolidation Officer, vide order dated 16.01.2020, rejected the application moved by the petitioners and fixed a date for hearing on the delay condonation application as well the restoration application. Appeal preferred on behalf of the petitioners against the order dated 16.01.2020, passed by the Consolidation Officer, was dismissed by the Settlement Officer of Consolidation, vide order dated 09.01.2023, and the same has been affirmed by the Deputy Director of Consolidation by the order dated 17.11.2025.

3. Learned counsel for the petitioners submits that delay condonation application ought to be decided first, prior to the decision on the restoration application. He has placed reliance upon the judgment of the Division Bench of this Court in the matter of **Ram Prakash vs. Deputy Director of Consolidation, Hardoi And Others**, reported in **2022 (155) RD 309**. For ready reference, relevant paragraph Nos. 19, 20 and 21 of **Ram Prakash** (supra) are quoted hereinbelow:-

"19. We are not going into the issue as to whether an order passed by

appellate authority on an application seeking condonation of delay is an interim order or final as the same has not been referred for consideration by the Division Bench. Different situations may arise in an appeal filed along with application seeking condonation of delay. Firstly, the application for seeking condonation of delay may be dismissed. As a consequence thereof, the appeal will also fail. Another situation may be that application seeking condonation of delay is allowed and thereafter the appeal may either be accepted or rejected.

20. If any statute provides certain period for filing of appeal, an appeal filed beyond the time limit will certainly be not entertained. If the provisions of 1963 Act are applicable and party is entitled to seek condonation of delay in filing appeal, an application has to be filed specifying the grounds on which delay in filing the appeal is sought to be condoned. It is only after that the application is allowed, the appeal can be entertained and heard on merits. Before that the appeal cannot be taken up and considered on merits.

21. As far as the issue regarding hearing of the application seeking condonation of delay and the appeal simultaneously is concerned, in our view, firstly the application has to be considered. Only thereafter, the appeal can be considered on merits but there is nothing in law which requires hearing of appeal on merits to be postponed mandatorily after acceptance of the application seeking condonation of delay. Both can be taken up on the same day. However, the appeal has to be heard on merits only after the application seeking condonation of delay has been accepted."

4. In view of the above, no useful purpose would be served by keeping this writ petition pending, therefore, the same is hereby **disposed of** finally with a direction that the Consolidation Officer shall decide the delay condonation application and the restoration application in accordance with the ratio laid down by the Hon'ble Division Bench of this court in the matter of Ram Prakash (supra).

(Dinesh Pathak,J.)

January 29, 2026

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