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Reserved On:- 2.12.2025
Delivered On:- 22.1.2026



2026:AHC:16648

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – B No. - 21333 of 2013

Shanti Devi

.....Petitioners(s)

Versus

Addl. Collector Admn./
D.D.C. and 5 Others

.....Respondents(s)

Counsel for Petitioners(s)	: Mr. Shashi Kant Shukla, Senior Counsel, Mr. Abrar Ahmad Siddiqui
Counsel for Respondent(s)	: Mr. Ashok Kumar Singh, Mr. B.N. Pathak, Standing Counsel

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Shashi Kant Shukla learned Senior Counsel assisted by Mr. Abrar Ahamad Siddiqui, learned Counsel for petitioner, Mr. Ashok Kumar Singh learned Counsel for respondent no. 2 and Mr. B. N. Pathak learned standing counsel for state-respondents.

2. Brief facts of the case are that dispute relates to plot no. 661 situated in Village - Bithri Chainpur, Pargana, Tehasil & District – Bareilly. According to petitioner, her husband, namely, Chhavinath purchased some area of plot no. 661 from Ram Bharosey through registered sale-deed dated 8.6.2001 and respondent nos. 3 to 5 also purchased some area of plot no. 661 from Ram Bharosey through registered sale deed dated 21-12-1999. In the proceeding under Section 9- A (2) of U.P. Consolidation of Holdings Acts 1953 (hereinafter referred to as "U.P.C.H. Act") it has been held that

Sohan Lal (father of Ram Bharosey) cannot be recorded over Khata No-99 Aa in view of judgment & decree dated 30.8.1982 passed by revenue court under Section 176 of UP. Zamindari Abolition & Land Reforms Act, 1950 (hereinafter referred to as "U.P.Z.A. & L.R. Act"), accordingly, Consolidation Officer vide order dated 17.1.1990 expunged the name of Sohan Lal from Khata No- 99Aa and entries of Chaina Devi as well as Chuno Devi were affirmed. The order of Consolidation Officer dated 17.1.1990 was maintained in appeal by Settlement Officer of Consolidation vide order dated 23.8.1991 as well as by Deputy Director of Consolidation vide order dated 31.3.1999 so far as claim of Sohan Lal was concerned but in respect to Rahaman Shah (vendee of Smt Chaina Devi) the order of Consolidation Officer dated 17.1.1990 was partly modified. One proceeding under Section 12 of U.P.C.H Act was initiated by Chhavinath (husband of petitioner) for recording of his name on the basis of sale-deed dated 8.6.2001, alleged to be executed by Ram Bharose. The Consolidation Officer vide order dated 1.3.2005 rejected the application filed by Chhavinath under Section 12 of U.P.C.H.Act. The order of Consolidation Officer was maintained in appeal by Settlement Officer of Consolidation vide order dated 25.5.2007 as well as in revision by Deputy Director of Consolidation vide order dated 9.1.2008. Respondent nos. 3 to 5 Ram Sewak & 2 others, vendees of Ram Bharosey on the basis of sale deed alleged to be executed on 21.12.1999, filed an application under Section 12 of U.P.C.H. Act which was allowed by Consolidation Officer vide order dated 6.4.2000 directing to record the names of Ram Sewak & 2 others in place of Ram Bharosey. Against the order of Consolidation Officer dated 6.4.2000, direct revision under Section 48 of U.P.C.H. Act was filed by Chhavinath (husband of petitioner) which was allowed vide order dated 3.9.2012, setting aside the order of Consolidation Officer to decide the proceeding under Section 12 of U.P.C.H. Act

afresh. After passing of remand order dated 3.9.2012 passed by Deputy Director of Consolidation, Consolidation Officer vide order dated 7.11.2012 ordered to record the name of Chhavinath on the basis of sale deed dated 8.6.2001 as well as name of Ram Sewak & 2 others on the basis of sale deed dated 21.12.1999, alleged to be executed by Ram Bharosey. Against the order dated 7.11.2012, respondent no.2/Chaina Davi filed a restoration application before Consolidation Officer as well as before Deputy Director of Consolidation on 29.1.2013 against the order dated 3.9.2012 alongwith application under Section 5 of Indian Limitation Act. Respondent nos.3 to 5 alongwith Shanti Devi filed objection to the aforementioned time barred restoration application. Deputy Director of Consolidation vide order dated 14.3.2013 allowed the restoration application filed by respondent no.2/Chaina Davi, setting aside the orders dated 3.9.2012 & 7.11.2012 and restored the revision on its original number. Hence this writ petition for following relief:-

“Issue a writ, order or direction in the nature of certiorari, quashing the impugned order dated 14.3.2013, passed by the Additional Collector (Administration) / Deputy Director of Consolidation, District Bareilly (Annexure No.11 to the writ petition).”

3. This Court entertained the matter on 17.4.2013 and stayed the further proceedings of Revision No. 346 & 347 in pursuance of the order dated 14.3.2013.

4. In pursuance of the order dated 17.4.2013 parties have exchanged their pleadings.

5. Learned Senior Counsel for the petitioner submitted that impugned order dated 14.3.2013 passed by Deputy Director of Consolidation, restoring the proceedings of revision is perverse

and without jurisdiction, as such, impugned order cannot be sustained in the eye of law. He further submitted that proper objection has been filed on behalf of petitioner against the application under Section 5 of Indian Limitation Act filed in support of restoration applications filed by respondent no-2/Chaina Devi. He further submitted that earlier adjudication has taken place in respect of Khata No-99Aa but present dispute relates to Khata No-99, as such, impugned order dated 14.3.2013 cannot be sustained in the eye of law. He further submitted that two separate restoration applications were filed on behalf of respondent no-2 before Consolidation Officer & Deputy Director of Consolidation but Deputy Director of Consolidation has exceeded his jurisdiction in setting aside the order of Consolidation Officer as remedy against the order of Consolidation Officer lies in appeal. He further submitted that respondent no.2 was not party before Consolidation Officer as well as before Deputy Director of Consolidation, as such, she has no right/ locus to apply for restoration/recall before consolidation officer/ Deputy Director of Consolidation. He further submitted that respondent no.-2 has no concern with plot no. 661, as such, she has no locus to file restoration / recall against the orders passed by consolidation authorities.

6. On the other hand, learned counsel for the respondent no-2 submitted that earlier proceedings under section-9 A (2) of the U.P.C.H. Act initiated by Ram Bharosey and Section-12 of U.P.C.H. Act initiated by Chhavinath (petitioner's husband) was decided against the Ram Bhrosey as well as Chhavinath as instant proceeding under Section 12 of U.P.C.H. Act is barred by principle of *res judicata*. He further submitted that order recording the names of petitioner as well as respondent no 2 to 5, has been passed without impleading the respondent no 2 as party, as such, orders are illegal. He further submitted that in earlier proceeding

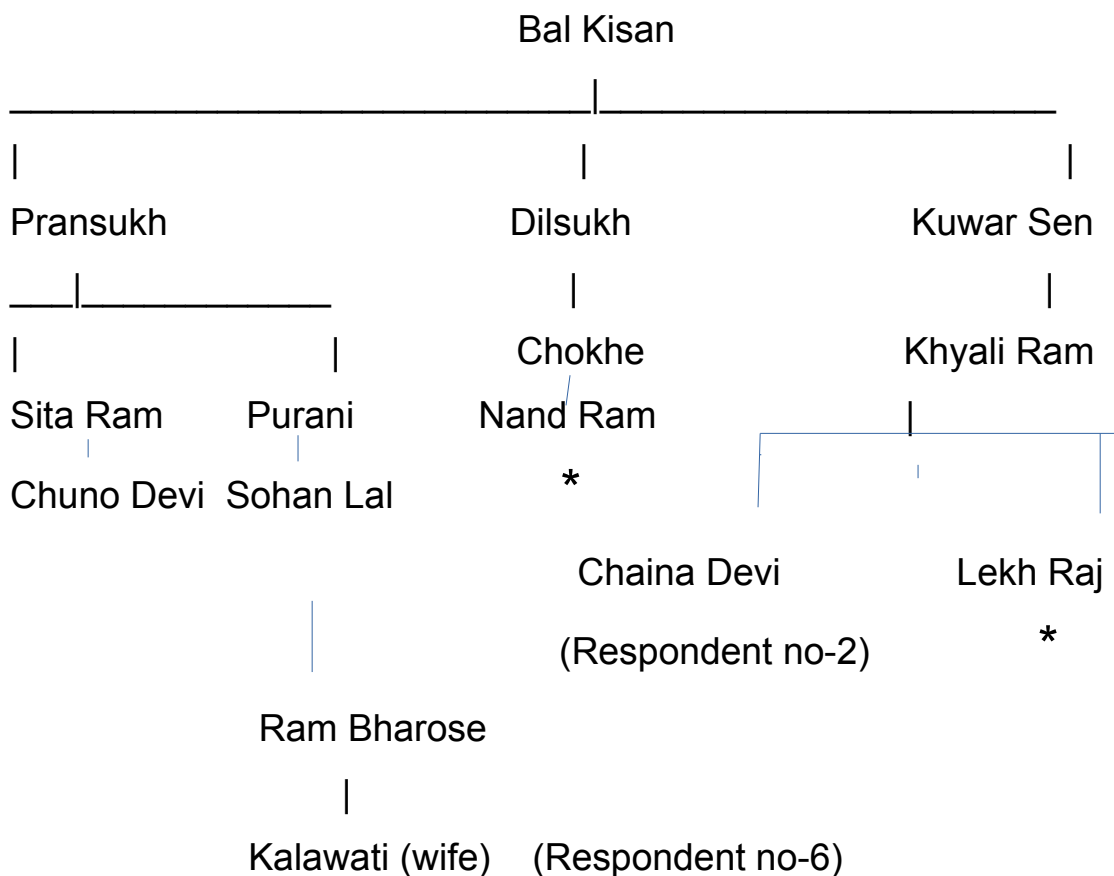
under section-12 of U.P.C.H. Act initiated by Chhavinath (petitioner's husband) , respondent no-2 was party, as such, in the subsequent proceeding initiated under section-12 of U.P.CH. Act, order cannot be passed without impleading the respondent no-2 as party. He submitted restoration applications along with prayer for condonation of delay were properly filed before Consolidation Officer as well as Deputy Director of Consolidation. He submitted that under the impugned order dated 14.3.2013, restoration applications have been allowed restoring the proceedings of revision to their original numbers in order to decide the matter on merit after opportunity of hearing to respondent no-2 which requires no interference in exercise of jurisdiction under Article 226 of the Constitution of India. He submitted that Ram Bharosey had no right to execute sale-deed in respect to plots of Khata No-99Aa, as such, Chhavinath (petitioner's husband) and respondents nos.- 2 to 5 have no right & title to be recorded over plots of Khata No-99Aa as vendees of Ram Bharosey as held by consolidation authorities in the earlier proceedings under section 9A(2) of U.P CH. Act as well as under section-12 of U.P.C.H. Act.

7. I have considered the arguments advanced by learned counsel for the parties and perused the record.

8. There is no dispute about the fact that in the proceeding under Section 12 of U.P.C.H. Act an order was passed by Consolidation Officer on 6.4.2000 for recording the names of respondent nos.3 to 5 in place of Ram Bharosey (husband of respondent no-6). There is also no dispute about the fact that Deputy Director of Consolidation vide order dated 3.9.2012 in the revisions filed by Chhavinath (petitioner's husband) as well as respondent no. 6 (wife of Ram Bharosey) set aside the order dated 6.4.2000 passed by Consolidation Officer and remanded the matter back before Consolidation Officer to decide the

proceeding under Section 12 of U.P.C.H. Act afresh. There is also no dispute about the fact that Consolidation Officer vide order dated 7.11.2012 directed to record the name of Chhavinath (petitioner's husband) as well as respondent nos. 3 to 5 in place of Ram Bharosey. There is also no dispute about the fact that respondent no. 2 filed restoration applications before Deputy Director of Consolidation against the order dated 3.9.2012 along with prayer for condonation of delay as well as before Consolidation Officer against the order dated 7.11.2012 along with prayer for condonation of delay. There is also no dispute about the fact that Deputy Director of Consolidation vide order dated 14.3.2013 allowed the restoration applications filed by respondent no.2, setting aside the orders dated 3.9.2012 as well as 7.11.2012 and restored both the revisions on their original numbers for fresh adjudication after affording opportunity of hearing to respondent no. 2 in accordance with law.

9. In order to appreciate the controversy involved in the matter, perusal of family pedigree will be relevant which is as under:-



10. In the earlier proceeding initiated under section- 9-A(2) of the U.P.C.H. Act, it has been finally held by consolidation authorities that Sohan Lal father of Ram Bharosey cannot be recorded over khata no-99A, as such, name of Sohan Lal was expunged and names of Chaina Devi as well as Chuno Devi remained ordered to be recorded as recorded in basic year. In the earlier proceeding initiated under Section 12 of U.P.C.H. Act by Chhavinath (petitioner's husband), consolidation authorities have held that Chhavinath cannot be recorded on the basis of sale deed dated 8.6.2001, alleged to be executed by Ram Bharosey son of Sohan Lal in view of the right & title adjudicated in the proceeding under section-9- A (2) of U.P.C.H. Act. In the earlier consolidation proceeding, Chaina Devi was party but in the subsequent proceeding under Section 12 of U.P.C.H. Act, Chaina Devi was not impleaded and order for recording the name of Chhavinath (petitioner's husband) on the basis of alleged sale deed dated 8.6.2001 has been allowed which is not proper exercise of jurisdiction by consolidation authorities.

11. It is also material to mention that respondent no.2 /Chaina Devi has filed two restoration applications, one before Consolidation Officer and another before Deputy Director of Consolidation along with prayer for condonation of delay. The Deputy Director of Consolidation has rightly exercised the jurisdiction in setting aside the order allowing the revisions dated 3.9.2012 as well as order dated 7.11.2012 passed by Consolidation Officer, allowing the application filed under Section 12 of U.P.C.H. Act as Deputy Director of Consolidation can exercise the jurisdiction against any order passed by the consolidation authority subordinate to him in view of the provisions contained under Section 44- A of U.P.C.H. Act. Section

44-A of the U.P. C.H. Act will be relevant for perusal which is as under: —

“44-A Powers of subordinate authority to be exercised by a superior authority: Where powers or duties are to be exercised or duties to be performed by any authority under this Act or the rules, made thereunder, such powers or duties may also be exercised or performed by any authority superior to it.”

12. The Deputy Director of Consolidation/revisional court can decide the entire dispute after impleading the respondent no.2 / Chaina Devi as party in both the revisions in proper manner, considering the earlier orders passed by the consolidation authorities under Section 9-A(2) of U.P.C.H. Act and Section 12 of U.P. C.H. Act. The issue as to whether the disputed plots are same or different in the earlier proceeding and in the subsequent proceeding will be examined by Deputy Director of Consolidation in proper manner.

13. Considering the entire facts and circumstances of the case, no interference is required against the impugned order dated 14.3.2013 passed by respondent no.1/revisional court, restoring the revisions under Section 48 of U.P.C.H Act on their original numbers for fresh adjudication of dispute in accordance with law.

14. **The writ petition is dismissed.** Respondent No.1/ revisional court is directed to decide the revisions in accordance with law after impleading respondent no-2/Chaina Devi as opposite party in both the revisions, expeditiously, preferably within period of 3 months from the date of production of certified Copy of this order before him.

(Chandra Kumar Rai,J.)

January 22, 2026
C.Prakash