



2026:AHC:22662

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 2910 of 2018

Phool Chand and 4 others

.....Petitioner(s)

Versus

D.D.C. and 3 Othrs.

.....Respondent(s)

Counsel for Petitioner(s)	: Brij Kishore Pandey, Manvendra Nath Singh
Counsel for Respondent(s)	: Bachchu Lal Yadav, C.S.C., Rajeev Mishra, Shyam Surat Shukla, Vijai Prakash Yadav, Vinod Kumar Pandey

Along with

WRIT - B No. - 4187 of 2025

Ratan Shankar Mishra And 3 Others

.....Petitioner(s)

Versus

Deputy Director Of Consolidation Varanasi And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Manvendra Nath Singh, Sr. Advocate
Counsel for Respondent(s)	: Akhila Nand Pandey, C.S.C., Shyam Surat Shukla, Suresh Chandra Varma

Reserved on:-05.12.2025

Delivered on 29.1.2026

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. V. K. Singh, learned Senior Counsel assisted by Mr. B.K. Pandey as well as Mr. Manvendra Nath Singh, learned counsel for petitioners, Mr. Suresh Chandra Verma, learned counsel assisted by Mr. Shyam Surat Shukla, learned counsel for respondent no-4/ Lalji Dubey and Mr. Ashutosh Kumar Rai, learned Additional Chief Standing Counsel for the State respondents in both the writ petitions.

2. Writ B No-2910 of 2018 arises out of proceeding under Section-9A (2) of U.P. Consolidation of Holdings Act, 1953, (hereinafter referred to as 'UPCH Act') and Writ B No-4187 of 2025 arises out of proceeding under Rule-109 A (2) of U.P. Consolidation of Holdings Rules, 1954 (hereinafter referred to as 'UPCH Rules') in respect to same disputed plots as such both the aforementioned writ petitions are clubbed & heard together.

3. Brief facts of the case are that dispute relates to Khata No-134, 135 situated in village - Nagapur, Khata No-41, 47, 99, 193, 297, 528, 228, 95-Kha, 52, 310-Ka, 311, 53, 179, 305, 306, 307, 308 situated in village - Belwa, Khata No-160 situated in village - Nindanpur, Pargana – Kolasla, Tehsil & District - Varanasi. Against the basic year entry of the aforementioned khata in dispute, an objection under Section-9A (2) of UPCH Act has been filed by petitioners/Phool Chand & others. Another set of objection under Section-9A (2) of UPCH Act has been filed by Shivpujan & others for recording of their names. One set of objection under Section-

9A (2) of UPCH Act was filed by respondent no-4/ Lalji for recording of their names as co-tenure holder of the khata in dispute. Other sets of objections under Section-9A (2) of UPCH Act were also filed against the basic year entry of the khata in dispute. Separate issues were framed in respect of khatas situated in village – Nagapur, Belwa, Lakhimpur & Nindanpur. All the cases registered were consolidated & heard together. Parties have adduced oral & documentary evidences in support of their cases. Consolidation Officer vide order dated 12.6.1975 decided all the cases/ objections filed under Section-9A (2) of UPCH Act holding that respondent no-4/ Lalji has failed to prove his case that he is legal heir of deceased Bhola while the claim of petitioners/ Phool Chand & others to be recorded as co-tenure holders were accepted. Respondent no-4/ Lalji filed appeal under Section-11 (1) of UPCH Act before Settlement Officer Consolidation, which was heard & dismissed vide order dated 29.9.2016. Respondent no-4/ Lalji filed revision under Section-48 of UPCH Act before Deputy Director of Consolidation against the order of Consolidation Officer dated 12.6.1975 & Settlement Officer dated 29.9.2016. The Deputy Director of Consolidation heard the aforementioned revision and vide order dated 30.12.2017 allowed the revision setting aside the orders dated 29.9.2016 as well as 12.6.1975 and respondent no-4/ Lalji was held to be legal heir of deceased Bhola as such ordered to be recorded accordingly. Hence the Writ Petition No.2910 of 2018

has been filed on behalf of Phool Chand and others for the following relief:

“a) Issue a writ order or direction in the nature Of certiorari to quash the order dated 30-12-2017 passed by Deputy Director of Consolidation Varanasi in Revision No. 1245, (Lalji Dubey VS Phoolchand and others) under Section 48(1) Uttar Pradesh Consolidation of Holdings Act.,

b) Issue a writ order or direction in the nature of mandamus directing the respondents not to interfere in peaceful possession of the petitioners over land in dispute.”

4. On 13.4.2018 following order was passed by this Court:-

“Let counter affidavit be filed within two weeks. Rejoinder affidavit be filed within one week thereafter.

List on 22nd of May 2018.

Till the next date, no third party interest shall be created by either of the parties without leave of the Court. “

5. In pursuance of the order dated 13.4.2018, parties have exchanged their pleadings.

6. In pursuance of the order passed under Section-9A (2) of UPCH Act, proceeding under Rule-109 A (2) of UPCH Rules was initiated by respondent no-4 and Consolidation Officer has passed order dated 31.1.2018. Petitioners filed a restoration application dated 10.12.2020 along with prayer for condonation of delay. Consolidation Officer vide order dated 4.4.2025 rejected the restoration application on the ground of limitation. Petitioners

challenged the orders dated 31.1.2018 & 4.4.2025 passed by Consolidation Officer by way of revision which was heard and vide order dated 6.9.2025, the Deputy Director of Consolidation adjourned the proceeding of revision till the pendency of Writ-B No.2910 of 2018. Hence Writ-B No.4187 of 2025 has been filed by Ratan Shankar Mishra & others for following relief:

“i. Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 06.09.2025 passed by the Respondent no.1/ D.D.C., Varanasi in Revision No.570 of 2025 (Computerized Case No.202554147000000570) -"Ratan Shankar Mishra and others Vs. Lalji and others"- under Section 49(1) of the U.P. consolidation of Holdings Act, 1953 as well as orders dated 4.4.2025 and 31.01.2018 passed by the Respondent no.2/ Consolidation Officer, Varanasi in Case No. 43/46 (Ratan Shankar Mishra and others Vs. Lalji and others) under Rule 109-A(2) of the U.P. Consolidation of Holdings Rules (contained in Annexure No. 1,2 and 3 respectively to the writ petition);

ii. issue a writ, order or direction in the nature of mandamus commanding the respondent No.4 and his associates not to interfere in the peaceful possession of the petitioners over the land in dispute in any manner whatsoever, and to maintains status quo with regard to the nature and possession of the land in dispute.”

7. This Court passed following orders on 10.11.2025 in Writ B No-4187 of 2025.

“1. Heard Mr. V.K. Singh, learned Senior Counsel assisted by Mr. Manvendra Nath Singh, learned counsel for the petitioners, Mr. Suresh Chandra Varma, learned counsel for respondent no.4 and

Mr. Ashutosh Kumar Rai, learned Additional Chief Standing Counsel for the State-respondents.

2. Respondent no.5 is stated to be proforma respondent, as such, notice to respondent no.5 is dispensed with.

3. Learned Senior Counsel for the petitioners submitted that the writ petition arises out of proceeding under Section 9-A (2) of U.P.C.H. Act being Writ-B No. 2190 of 2018 is pending before this Court but consolidation authorities in the proceeding under Rule 109-A of U.P.C.H. Rules are proceeding in illegal and arbitrary manner in pursuance of the order of Deputy Director of Consolidation dated 30.12.2017 which is sub-judice in Writ-B No.2190 of 2018.

4. Learned counsel for respondent no.4 submitted that the operation of the impugned order has not been stayed in Writ- B No.2190 of 2018, as such, there is no illegality in the order passed in the proceeding under Rule 109-A of U.P.C.H. Rules. He further submitted that even revision filed by the petitioners against the order passed by the Consolidation Officer under Rule 109-A of U.P.C.H. Rules is pending as such, the instant writ petition is not maintainable.

5. Put up this case as fresh on 25.11.2025 at 3:00 P.M. along with Writ- B No.2190 of 2018.

6. Learned counsel for the petitioners shall inform about this order in writing to learned counsel appearing on behalf of petitioners in Writ- B No.2190 of 2018 within three day so that Writ- B No.2190 of 2018 can be decided finally on the next date fixed in the matter."

8. In pursuance of the order dated 10.11.2025 both the writ petitions were listed & heard together on 5.12.2025.

9. Learned Senior Counsel for the petitioners submitted that Consolidation Officer has recorded finding of fact that respondent no-4/ Lalji is not legitimate daughter's son of Bhola as such Lalji cannot be recorded as legal heir of deceased Bhola which has been maintained in appeal under Section-11 (1) of UPCH Act by dismissing the appeal filed by Lalji. He further submitted that Deputy Director of Consolidation has exceeded his revisional jurisdiction under Section-48 of UPCH Act in setting aside the orders of Consolidation Officer as well as Settlement Officer of Consolidation and directing to record the name of respondent no-4/ Lalji as daughter's son of Bhola. He further submitted that Gujrati was not legally wedded wife of Bhola as such respondent no-4/ Lalji, who is son of Gujrati, cannot be treated as legal heir of Bhola. He further submitted that according to provisions contained under U.P. Z.A. & L.R. Act with respect to married daughter, the Lalji (if it is found he is legitimate daughter's son) cannot be recorded as daughter's son of Bhola at the relevant point of time. He submitted that Bhola died on 17.8.1948 and Sukhdei died on 31.10.1960 therefore succession will open in 1960 and provision contained under Section-172 of U.P. Z.A. & L.R. Act will be applicable as such claim of respondent no-4/ Lalji as daughter's son cannot be allowed. He submitted that oral statement of Shrinath Dubey (brother of Sukhdei) recorded on 19.1.1958 in earlier proceedings under Section-49 of U.P. Tenancy Act demonstrates that Sukhdei was married to Jadunandan Pandey of

village - Mohinidih and Ramdei was married to Bhola Mishra as such there is no illegality in the order of Consolidation Officer rejecting the claim of respondent No.4/ Lalji. He further submitted that orders passed by Settlement Officer Consolidation as well as Deputy Director of Consolidation in the proceeding under Section-9A (2) of UPCH Act are illegal as such orders passed by Consolidation Officer under Rule-109 A (2) of UPCH Rules cannot be sustained in the eye of law. He submitted that orders passed under Rule-109 A (2) of UPCH Rules are also liable to be set aside.

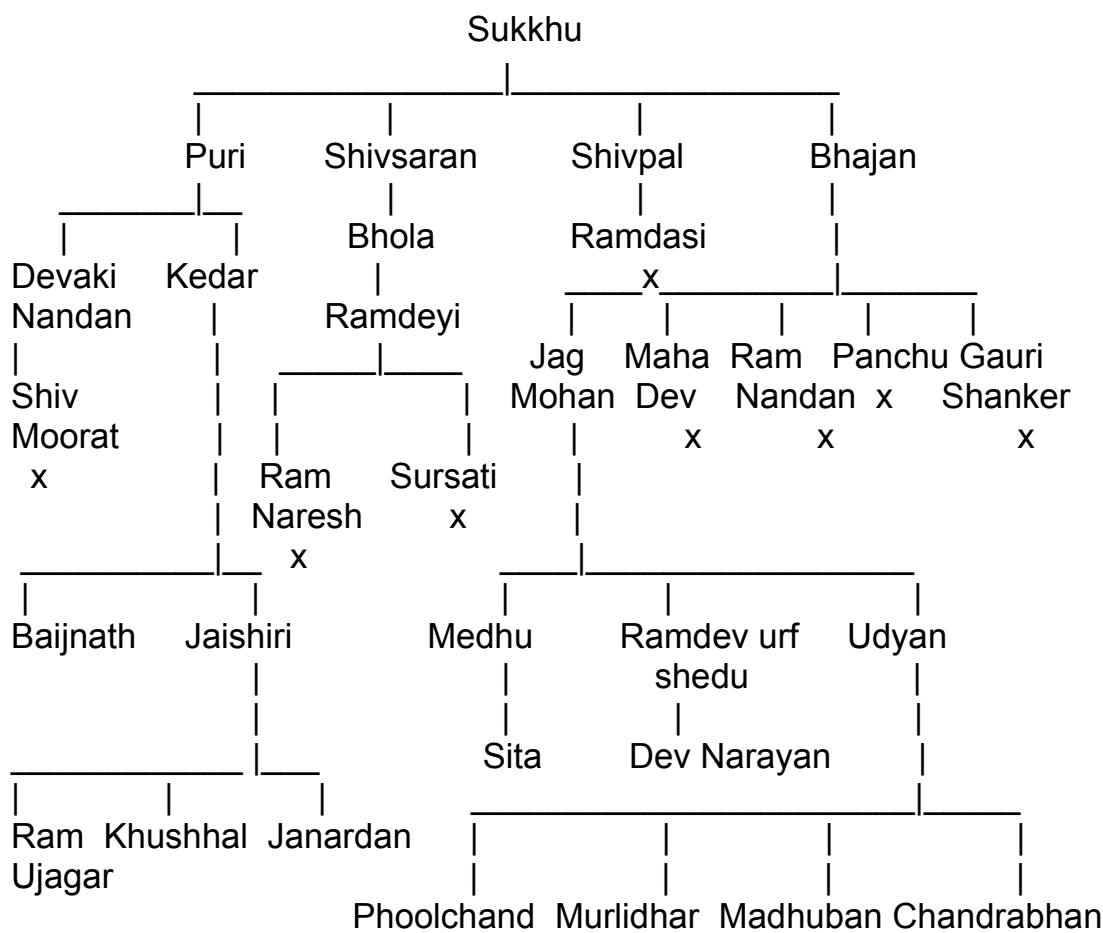
10. On the other hand learned counsel for the respondent no-4 submitted that Consolidation Officer has illegally held that respondent no-4 is illegitimate daughter's son of Bhola. He further submitted that from the evidence on record it is fully demonstrated that respondent no-4 is daughter's son of Bhola and Bhola died on 17.8.1984 as such in view of provision of Section-35(k) of U.P. Tenancy Act, 1939, daughter's son will be entitled to inherit. He submitted that Settlement Officer of Consolidation has dismissed the appeal filed by respondent no-4 on the ground that date of death of Bhola was 17.8.1984 as such appellate order cannot be sustained in the eye of law. He further submitted that Deputy Director of Consolidation has rightly exercised revisional jurisdiction in holding that at the time of death of Bhola taken place on 17.8.1948, U.P. Tenancy Act, 1939 was in operation as such in view of Section-35(k) of U.P. Tenancy Act, 1939

daughter's son will inherit. He further submitted that provision of U.P.Z.A. & L.R. Act will not be applicable on 17.8.1948 when the succession opened. He submitted that exercise of revisional jurisdiction under Section-48 of UPCH Act by Deputy Director of Consolidation is in accordance with law which requires no interference in exercise of jurisdiction under Article-226 of the Constitution of India. He further submitted that exercise of jurisdiction under Rule-109 A(2) of UPCH Rules by Consolidation Officer is also in accordance with law as such both the writ petitions filed by petitioners should be dismissed.

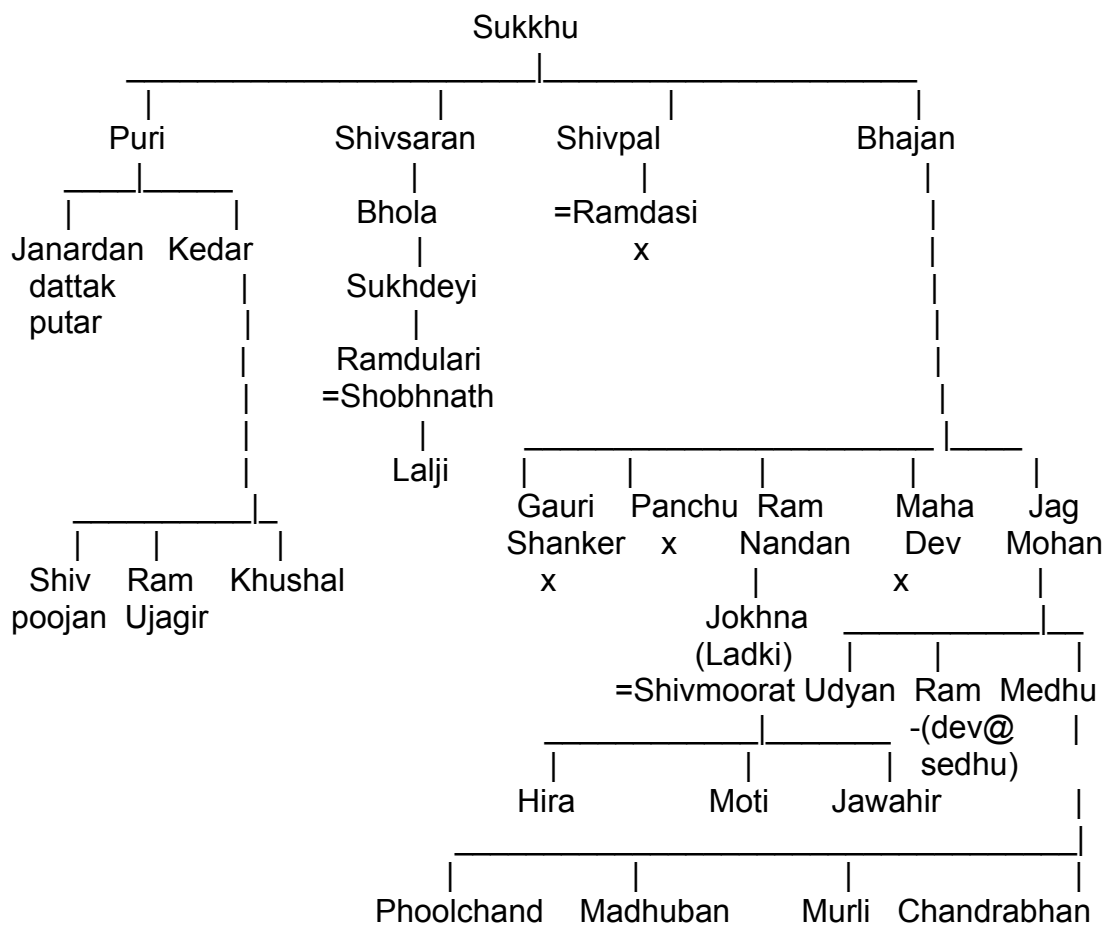
11. I have considered the arguments advanced by learned Counsel for the parties and perused the record.

12. There is no dispute about the fact that the claim of respondent no-4/ Lalji under Section- 9A (2) of UPCH Act was rejected and claim of petitioners was allowed. There is also no dispute about the fact that appeal under Section-11 (1) of UPCH Act filed by respondent no-4/ Lalji was dismissed. There is also no dispute about the fact that revision under Section-48 of UPCH Act filed by respondent no-4/ Lalji was allowed and respondent no-4/ Lalji was ordered to be recorded in place of Bhola as his successor.

13. In order to appreciate the controversy involved in the matter, perusal of family pedigree, according to petitioners as mentioned in the order of Consolidation Officer, will be relevant which is as under:



14. Family pedigree according to respondent no-4/ Lalji as mentioned in the order of Consolidation Officer is as under:



15. Perusal of the relevant portion of the order of Consolidation Officer will be also relevant which is as under:-

"नकल फौती रमदेई दाखिल है। जिससे यह स्पष्ट है कि रमदेई सन् 1914 में मरी। यह पक्षों को स्वीकार है कि रमदेई की लड़की सुरसती थी। जो रमदेई के मरने के 12 साल पूर्व पैदा हुई। लड़की भोला मिश्र सन् 1931 ई० की दाखिल है। होती है। कि भोला मिश्र को एक लड़की पैदा हुई हो जाता है कि भोला मिश्र की औरत सन् 1931 ई० में जीवित यहीं पर यह प्रश्न उत्पन्न हो जाता है कि कौन सी औरत उस समय थी। दस्तावेज रेहननामा दिनांक 08.07.1929 ई० दाखिल है। जिससे स्पष्ट है कि भोला मिश्र ने रूपया दूसरी शादी करने के लिए कर्ज लिया। इस तरह भोला मिश्र का शादी करना और लड़की सन् 1931 में पैदा होना साबित हो जाता है अब देखना यह है कि जो पैदाइश सन् 1931 ई० की दाखिल है वह दुलारी को रिलेट करती है या नहीं। दुल्लन गवाह मौजा नथईपुर का है। जिसे इस बात की जानकारी नहीं है कि दुलारी की माँ का क्या हुआ था। नहीं जानता हूँ। दुलारी के भाई के बारे में मैं नहीं जानता हूँ" इस तरह इस बात की इस गवाह को जानकारी नहीं है कि दुलारी किसकी लड़की थी। आगे जिरह में इस गवाह ने कहा है कि "हमको नहीं मालूम कि दुलारी की माँ का नाम गुजराती था। दुलारी के भाई तिलकधारी थे या नहीं हमें नहीं मालूम" इस प्रकार इस गवाह को जानकारी नहीं है। श्री केदार नाथ दुबे ने दिनांक 24.11.51 को दफा 49 के मुकदमे में जो लालजी बनाम शिवमूरत आदि के नाम से चला था, बयान हुआ था। यह लालजी के उक्त मुकदमे में वली भी थे। नकल बयान दाखिल है। इसमें उन्होंने कहा है कि दुलारी की माँ का नाम नहीं जानता। दुलारी की माँ कहा रहती थी मैं नहीं जानता। दुलारी की शादी जब हुई तब उसकी माँ जिन्दा थी या मर गयी मैं नहीं जानता। नकल बयान श्रीनाथ रामसुमेर निवासी मुरली धरसौना का दाखिल है।

यह बयान दफा 49 ऐक्ट 17 सन् 1939 लालजी बनाम शिवमूरत के मुकदमें में 19.01.58 ई० को हुआ था। श्रीनाथ दुबे मु० सुखदेई के सगे भाई है। श्रीनाथ ने अपने बयान में कहा है कि रमदेई सुखदेई मेरी बहिने थी। रमदेई की शादी भोला मिश्र से हुई थी। सुखदेई की शादी जदुनन्दन पाण्डे निवासी मोहिनी डीह से हुई थी। सुखदेई रमदेई से पहले बिला गौना आये मर गयी थी। यहाँ पर एक यह प्रश्न पैदा होता है कि एक भाई अपनी सगी बहन के बाबत शादी आदि के मामले में इतना गलत नहीं कह सकता कि उसकी बहिन की शादी अमुक व्यक्ति से नहीं अमुक व्यक्ति से हुई। लालजी की ओर से इस बात का कोई स्पष्टीकरण नहीं है कि केदार ने ऐसा बयान क्यों दिया। रामसुमेर दुबे की लड़की सुखदेई सन् 1907 ई० में मरी फौती दाखिल है। केदारनाथ

का दावा 229 बी के मुकदमें में जोकि लालजी बनाम सरकार के मुकदमें में दिनांक 03. 09.66 ई० को हुआ की अनुसार दाखिल है। इसमें केदारनाथ ने लालजी की आयु 16,17 साल कही है। यह भी स्वीकार किया है कि दुलारी मर गयी। यह भी स्वीकार किया है कि रमदेई सुखदेई के भाई श्रीनाथ पुत्र रामसुमेर मौजा मुरली धरसौना के है। नकल पैदाइश लड़का भोला दिनांक 12.02.29 ई० दाखिल है रमदेई सन् 1914 में मरी। फिर भोला के लड़का सन् 1929 में किस प्रकार पैदा हुआ। फूलचन्द आदि का कहना है कि रमदेई के मरने के बाद भोला ने एक रखैल मु० गुजराती को रख लिया जिससे तिलकधारी लड़का व दुलारी लड़की पैदा हुई। तिलकधारी की ओर से दफा 49 के मुकदमे में मु० गुजराती ने उजरदारी बहैसियत वली के किया था जो उन्होंने बाद में उठा लिया। मदरसा छोड़ने के प्रमाण पत्र के तिलकधारी मदरसे में दाखिल का दिनांक 31.01.1936 है। यह पाठक मुदर्सि द्वारा दिया गया। बश नरायन पाठक का वंश नरायन पाठक ने तिलकधारी को भोला मिश्र का लड़का बता यह भी कहा है कि राम दुलारी पुत्री भोला भी हमारे स्कूल में है को दाखिल हुई और 31.08.43 तक हमारे रजिस्टर में दर्ज है। लड़की की पैदाइश 05.03.32 दर्ज है। नकल बयान गोविन्द दास दाखिल है जो बेलवा के रहने वाले है। उन्होंने भी अपने बयान में फूलचन्द आदि द्वारा दिए गये केस की ताईद किया है। बुल्लुर पुत्र जम्मन नाई का बयान दफा 49 के मुकदमे में हुआ उसने भी कहा है कि गुजराती जो अहिरौली की थी को भोला मिश्र ने रख लिया था उसके एक लड़का तिलकधारी व लड़की रामदुलारी पैदा हुई। नकल अर्जीदावा शिवमूरत बनाम सरकार हस्व दफा 229 बी से भी स्पष्ट है कि भोला मिश्र लाबल्द मरे।

उपरोक्त तथ्यों के अनुसार यह निष्कर्ष निकलता है कि लालजी भोला के नाती है परन्तु जायज नाती नहीं है। लालजी ने मौजा मुरलीधरसौना व बेलवा का कोई ऐसा गवाह स्वतंत्र नहीं दिया जो इस बात को साबित करता कि लालजी भोला के जायज नाती व दुलारी जायज लड़की थी। इस तरह लालजी भोला के वारिस नहीं माने जा सकते हैं। लालजी अपने दावे को साबित करने में असफल रहे हैं। परिणाम स्वरूप विवादित खातों के सम्बन्ध में लालजी की आपत्ति खारिज की जावे। इन तनकीहों का निर्णय इसी प्रकार से किया जाता है।"

16. Findings of fact recorded by Consolidation Officer as quoted above demonstrate that Sukhdei was not married to Bhola Mishra and there is no evidence on record, which demonstrates that Gujrati was married to Bhola Mishra. According to the pedigree

set up by respondent no-4/ Lalji, as mentioned above, Sukhdei was married to Bhola Mishra and Ramdulari born from the wedlock of Bhola Mishra & Sukhdei, which is wholly wrong in view of the oral evidence adduced by Shrinath Dubey (brother of Sukhdei) in the proceeding under Section-49 of U.P. Tenancy Act as such it is fully established that Ramdulari is not daughter of Bhola Mishra so Lalji cannot be treated as daughter's son of Bhola Mishra.

17. It is material to mention that Consolidation Officer after framing issues and considering the oral as well as documentary evidence on record has held that Lalji is not daughter's son of Bhola Mishra as such Lalji cannot succeed Bhola Mishra and appeal filed by Lalji has been dismissed but Deputy Director of Consolidation has arbitrarily held that Lalji was found daughter's son by Consolidation Officer as such Lalji is entitled to be recorded as successor of Bhola Mishra, which is illegal exercise of revisional jurisdiction by Deputy Director of Consolidation.

18. It is also material to mention that respondent No.4/Lalji has not appeared for statement before Consolidation Officer as such adverse inference was drawn against the respondent No.4/Lalji by Consolidation Officer while deciding the matter under section 9-A (2) of U.P.C.H. Act, which is correct exercise of jurisdiction by Consolidation Officer.

19. Considering the entire facts & circumstances of the case, the impugned revisional order dated 30.12.2017 passed by respondent no-1/ Deputy Director of Consolidation is liable to be set aside and the same is hereby set aside. The order of Consolidation Officer dated 12.6.1975 passed under Section-9A (2) of UPCH Act is hereby affirmed.

20. In view of setting aside of the impugned order dated 30.12.2017 in the proceeding under Section- 9A (2) of UPCH Act, the impugned orders dated 31.1.2018 as well as 4.4.2025 passed by respondent no-2/ Consolidation Officer in the proceeding under Rule-109 A (2) of UPCH Rules as well as order dated 6.9.2025 passed by respondent no-1/ Deputy Director of Consolidation are also hereby set aside.

21. Writ-B No.2910 of 2018 and Writ-B No.4187 of 2025 are accordingly allowed.

22. No order as to costs.

(Chandra Kumar Rai,J.)

January 29, 2026
PS*