

Reserved On:11.12.2025

Delivered On: 30.01.2026



2026:AHC:21024

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – B No. - 12190 of 1984

Girish Kumar

.....Petitioners(s)

Versus

D.D.C. & Others

.....Respondents(s)

Counsel for Petitioners(s)	:	Mr. Anil Kumar Aditya
Counsel for Respondent(s)	:	Mr. Raj Kumar, Mr. Rajesh Kumar Tiwari, Addl. C.S.C.

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Anil Kumar Aditya, learned counsel for the petitioner, Mr. Raj Kumar, learned counsel for the private respondents and Mr. Rajesh Kumar Tiwari, learned Addl. C.S.C. for the state-respondents.

2. Brief facts of the case are that dispute relates to khata no.183, situated in village Gambhirpura, District Allahabad. In the basic year of the consolidation operation, the aforementioned khata no.183 was recorded in the name of respondent no.2/Chhatrapal and respondent no.3/Lallu. Against the basic year entry of khata in dispute, an objection under Section 9 of the U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as the "U.P. C.H. Act") was filed by the petitioner, stating that khata in dispute belong to Anandi Kunwar and petitioner being daughter's son of deceased Anandi Kunwar, is entitled to be recorded in place of Chhatrapal and Lallu. Three issues were framed before the Consolidation Officer and the parties have adduced oral and

documentary evidence in support of their cases. The Consolidation Officer vide order dated 26.5.1979 allowed the objection and directed to record the name of the petitioner being the daughter's son of deceased Anandi Kunwar in place of Chhatrapal and Lallu. Against the order of the Consolidation Officer dated 26.5.1979, respondent nos. 2 & 3 filed an appeal under Section 11(1) of the U.P. C.H. Act before the Settlement Officer of Consolidation. The aforementioned appeal was heard by the Assistant Settlement Officer of Consolidation, Allahabad who vide order dated 27.6.1981 allowed the appeal, set aside the order of the Consolidation Officer dated 26.5.1979 and maintained the basic year entry. Against the appellate order dated 27.6.1981, revision under Section 48 of the U.P. C.H. Act was filed by the petitioner before the Deputy Director of Consolidation. The aforementioned revision was heard and dismissed by the Deputy Director of Consolidation vide order dated 28.5.1984. Hence, this writ petition for the following reliefs:-

"1. Issue a writ, order or direction in the nature of certiorari, quashing the orders dated 27.6.1981 and 28.5.1984, passed by respondent nos. 1 & 4 (Annexure Nos. 2 & 1) to the writ petition.

2. Issue a writ of mandamus, order or direction in the nature of mandamus, commanding the respondent nos. 2 & 3 not to interfere with the peaceful possession of the petitioner over the khata in dispute."

3. This Court admitted the writ petition on 11.9.1984 and granted interim order, staying the dispossession of the petitioner from the disputed land.

4. In pursuance of the order dated 11.9.1984 passed by this Court, parties have exchanged their pleadings.

5. Learned counsel for the petitioner submitted that the Consolidation Officer after framing issues and giving opportunity to the parties to lead evidence, has allowed the objection filed by the petitioner, holding that petitioner is entitled to be recorded over the khata in dispute being daughter's son of Anandi Kunwar. He further submitted that school leaving certificate/register of Tulsipur, has not been duly proved before the Consolidation Officer, as such, the Consolidation Officer has not taken the same into consideration but the Settlement Officer of Consolidation has allowed the appeal filed by respondent nos. 2 & 3, on the basis of inadmissible evidence. He further submitted that the plea raised by respondent nos. 2 & 3 that Dhanpatia is the sister of Anandi Kunwar and Savitri was the daughter of Dhanpatia, was not taken before the Tehsildar in the proceeding under Section 34 of the U.P. Land Revenue Act, as such, the same cannot be raised before the consolidation court. He also submitted that recital in the sale deed, cannot be taken into consideration by the consolidation authorities to deprive the petitioner from his legal right in the proceeding under Section 9-A(2) of the U.P. C.H. Act. He further submitted that entry of 1333 fasli and 1348 fasli fully demonstrate that khata in dispute, was self-acquisition of Anandi Kunwar and husband of Anandi Kunwar was alive in 1333 fasli and death of husband Anandi Kunwar has taken place before 1348 fasli. He further submitted that *kutumb register* filed before the Consolidation Officer, demonstrate that petitioner is son of Savitri Devi and Savitri Devi is the daughter of Anandi Kunwar. He further submitted that cutting taken place in the *kutumb register*, has not been signed by any authority, as such, the cutting made in the family register, cannot be taken into consideration. He submitted that the order of the Consolidation Officer was passed in accordance with law, as such, the same should be maintained and the order of the Settlement Officer of Consolidation as well as

Deputy Director of Consolidation are liable to be set aside. He placed reliance upon following judgments of this Court in support of his arguments:-

(i) 2014 (122) RD 714, Smt. Parveen Begum and Another vs. Additional Collector and Others.

(ii) 2002 (93) RD 1, Salik and Another vs. Additional Director of Consolidation and Others.

6. On the other hand, learned counsel appearing for respondent nos. 2 & 3, submitted that the petitioner is not the legal heir of Anandi Kunwar, as such, the petitioner cannot be recorded in place of respondent nos. 2 & 3. He submitted that respondent nos. 2 & 3 were ordered to be recorded as *Bhumidhar* of the khata in dispute before initiation of the consolidation operation of the village in question. He further submitted that the petitioner's entry continued till the basic order of the consolidation operation. He further submitted that the Consolidation Officer has illegally allowed the objection filed by the petitioner under Section 9-A(2) of the U.P. C.H. Act, as such, the title appeal was filed on behalf of respondent nos. 2 & 3 which has been rightly allowed by the Settlement Officer of Consolidation and appellate order has rightly been maintained in revision by the Deputy Director of Consolidation. He further submitted that Assistant Settlement Officer of Consolidation has discussed the evidentiary value of the alleged *kutumb register* and recorded finding of fact that the alleged *kutumb register* is not reliable as the same has been prepared for the purposes of the case. He further submitted that the oral and documentary evidence adduced by the parties, have been fully considered by the appellate court as well as revisional court while passing the impugned orders, as such, no interference is required by this Court against the impugned appellate order/revisional order. He further submitted that respondent nos. 2 & 3 have taken the stand from very beginning that Dhanpatia was

the sister of Anandi Kunwar and Savitri Devi was the daughter of Dhanpatia. He submitted that there is no illegality in the impugned appellate order as well as revisional order, as such, no interference is required and the writ petition filed by the petitioner should be dismissed.

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

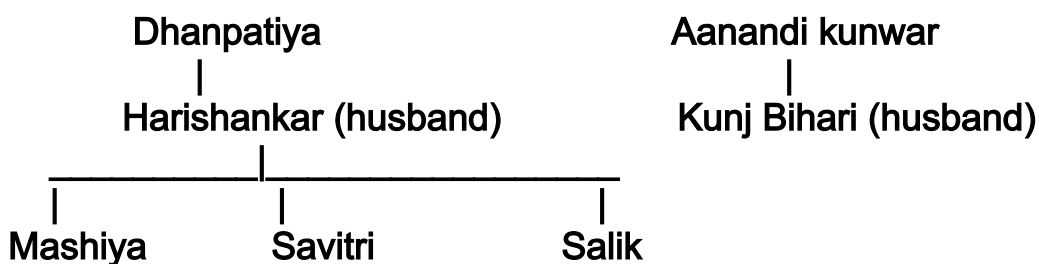
8. There is no dispute about the fact that respondent nos. 2 & 3 were recorded in the basic year of the consolidation operation over khata in dispute. There is also no dispute about the fact that title objection under Section 9-A(2) of the U.P. C.H. Act filed by the petitioner was allowed by the Consolidation Officer, directing to record the name of the petitioner over khata in dispute in place of respondent nos. 2 & 3. There is also no dispute about the fact that the appeal filed by respondent nos. 2 & 3 was allowed, setting aside the order of the Consolidation Officer as well as maintaining the basic year entry. There is also no dispute about the fact that revision filed by the petitioner has been dismissed by the Deputy Director of Consolidation.

9. In order to appreciate the controversy involved in the matter, perusal of the family pedigree, according to the petitioner as well as respondent nos. 2 & 3, as mentioned in the revisional order, are relevant which are as under:-

Family pedigree according to the petitioner is as under:-

Kunjbihari
|
Aanandi kunwar (female)
|
Savitri (daughter)
|
Gireesh

Family pedigree according to respondent nos. 2 & 3 is as under:-



10. The perusal of the three issues framed by the Consolidation Officer will also be relevant which are as under:

1. क्या वादी विवादित भूमि का तनहा स्वामी है,।
2. क्या खाते में विवादित भूमि में प्रतिवादीगण का नाम फर्जी दर्ज है ।
3. क्या प्रतिवादीगण विवादित भूमि के तनहा स्वामी है।

11. The Consolidation Officer, considering the oral and documentary evidence adduced by the parties, recorded finding of fact that Savitri Devi was the daughter of Anandi Kunwar and Kunj Bihari and petitioner/objector/Gireesh Kumar is the son of Savitri Devi (daughter son of Anandi Kunwar), accordingly, petitioner/objector/Girish Kumar is entitled to be recorded over khata no.183 as successor of Anandi Kunwar. The Consolidation Officer has taken into consideration the entry of 1321 fasli, 1333 falsi, 1348 fasli, 1363-1365 fasli, 1377-1379 fasli, death certificate, kutumb register, etc. The Consolidation Officer has also recorded finding of fact that Dhanpatia was alive when the proceeding/case under Section 9-A(2) of the U.P. C.H. Act was pending before the Consolidaton Officer but steps have not been taken to examine Dhanpatia before the Consolidation Officer, as such, adverse inference will be drawn against respondent nos. 2 & 3. The Settlement Officer of Consolidation has set aside the order passed by the Consolidation Officer in arbitrary manner, recording

finding that in respect to the half share of khata no.183, sale deed was executed in favour of the petitioner/objector/Girish Kumar, as such, he cannot claim right for remaining half share in khata no.183 which is not proper exercise of appellate jurisdiction by the Settlement Officer of Consolidation.

12. Copy of Kutumb Register of village– Udhin Buzurg annexed as Annexure No.10 to the writ petition demonstrate that Savitri was not member of the family of Harishanker, as such, Savitri cannot be treated to be daughter of Harishankar. Kutumb Register part- 1 of Village Gambhirapura dated 1.8.1975 filed before Consolidation Officer as well as annexed as Annexure No.4 to the writ petition demonstrate that Anandi Kunwar was wife of Kunjbihari and Savitri wife of Kailash Nath was daughter of Anandi Kuwar as well as Vinod & Girish were daughter's sons of Anandi Kuwar. Khatauni of 1333 fasli demonstrate that khata in dispute was self acquisition of Anandi Kuwar, as such, mere execution of sale deed for ½ share of khata in dispute in favour of petitioner as well as mentioning the fact that heirs of Anandi Kunwar will have no right & title in the sold property, will not deprive the petitioner/ Girish to set up his claim as daughter son of Anandi Kunwar in accordance with law. The Settlement Officer of Consolidation as well as Deputy Director of Consolidation have illegally set aside the order of Consolidation Officer on misconceived ground.

13. Once it is held that petitioner/ Girish is daughter son of Anandi Kunwar, then claim of petitioner as daughter son cannot be refused by consolidation authorities in view of the provision contained under Section 174(e) of U.P. Zamindari Abolition and Land Reforms Act, 1950 which provides succession to daughter's son if the woman holding an interest otherwise to Section 171 & 172 of the Act.

14. The Settlement Officer of Consolidation has also not considered the fact that cutting made in the kutumb register in respect to Savitri Devi, has not been initialed by any authority, as such, it cannot be said that Savitri Devi was not daughter of Anandi Kunwar.

15. The Deputy Director of Consolidation has maintained the appellate order, without considering the finding of fact recorded by the Consolidation Officer in proper manner.

16. Considering the entire facts and circumstances of the case, the impugned revisional order dated 28.5.1984, passed by respondent no.1/Deputy Director of Consolidation and the appellate order dated 27.6.1981, passed by respondent no.4/Assistant Settlement Officer of Consolidation are liable to be set aside and the same are hereby set aside.

17. The writ petition stands allowed. The order of the Consolidation Officer dated 26.5.1979 is hereby affirmed.

18. No order as to costs.

(Chandra Kumar Rai,J.)

January 30, 2026
C.Prakash