



2026:AHC:4170

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 4569 of 1980

Ashok Kumar Singh And Others

.....Petitioner(s)

Versus

Dy.Director Of Consolidation And Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashok Khare, K.J. Khare, Kirtikar Pande, N. Lal, Swatantra Pratap Singh, V.K. Singh, Vinay Kumar Singh
Counsel for Respondent(s)	: Shams Uz Zaman, Swatantra Pratap Singh

Reserved On:24.11.2025

Delivered On: 8.1.2026

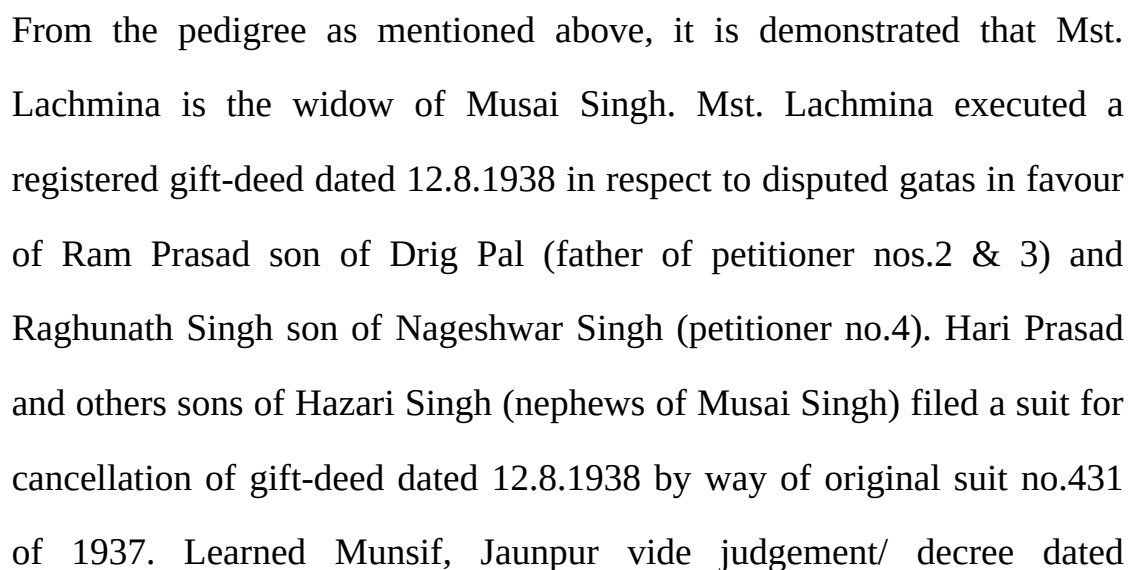
Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Atul Dayal, learned Senior Counsel assisted by Mr. Vinay Kumar Singh & Mr. Kirtikar Pande, learned counsel for the petitioners, Mr. H.R. Mishra, learned Senior Counsel assisted by Mr. Swatantra Pratap Singh, learned counsel for the private respondents and Mr. Rajesh Kumar Tiwari, learned Additional Chief Standing Counsel for the State-respondents.

2. Brief facts of the case are that dispute relates to khata no.45Ka and 45Kha situated in Village- Barhoopur, Pargana Gadhawara, District- Jaunpur. Khata no.45Ka consist of 19 plots measuring 5.51 acre as mentioned in para no.2 of the writ petition. Khata no.45Kha consist of plot nos.280 and 61 which are grove measuring 4.26 acre and 0.39 acre respectively. The aforementioned khata in dispute belongs to one Musai Singh son of Sogram Singh resident of Village- Baihari Pargana Gadhawara, District- Jaunpur. The pedigree of Musai Singh as mentioned

Bachchu Singh



21.9.1938/ 10.10.1938 decreed the suit and held that the gift deed is null and void. A suit for ejectment filed by Hari Prasad and others under Section 180 of U.P. Tenancy Act, 1939 against Ram Prasad Singh and Raghunath Singh in respect to plots of Khata no.45 Ka was decided on the basis of compromise vide order dated 30.11.1948/ 30.3.1950. Village in question came under consolidation operation by way of notification under Section 4 of U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as "U.P.C.H. Act") in the year 1973. Respondent nos.4 to 12 filed an objection under Section 9-A (2) of U.P.C.H. Act in respect to the plots of Khata Nos.45Ka and 45 Kha as Raghunath Singh and sons of Ram Prasad Singh were recorded in the basic year of the consolidation operation. Consolidation Officer vide order dated 19.8.1974 has held that the plots of khata no.45Kha and 1/2 share of plot no.45Ka shall be recorded in the name of respondent nos.4 to 12 and only 1/2 share of plots of Khata No.45 Ka shall be recorded in the name of petitioner. Against the order of Consolidation Officer dated 19.8.1974, an appeal under Section 11 (1) of U.P.C.H. Act was filed by Raghunath Singh, Bans Bahadur, Tej Bahadur & Samar Bahadur before Settlement Officer of Consolidation which was dismissed vide order dated 13.9.1976. Revision under Section 48 of U.P.C.H. Act filed by petitioners before Deputy Director of Consolidation was dismissed vide order dated 29.1.1980. Hence this writ petition on behalf of the petitioners for the following reliefs:

"i. that a writ of certiorari order or direction in the nature of certiorari be issued calling for the records of the case and quashing the orders of the Consolidation Officer dated 19.8.1974, the Settlement Officer of Consolidation dated 13.9.1976 and of the Deputy Director of Consolidation dated 29, January, 1980.

ii. that such other writ order or direction be issued as the petitioner be in law entitled."

3. This Court admitted the writ petition on 12.1.1981 and granted interim order to the effect that the petitioners existing chak shall not be disturbed.

4. In pursuance of the order dated 12.1.1981, parties have exchanged their pleading.

5. Learned Senior Counsel for the petitioners submitted that the petitioners had acquired the right in respect to the disputed khata on the basis of possession and period of limitation for evicting the occupant of the plot has expired, as such, impugned orders passed by the consolidation authorities cannot be sustained in the eye of law. He further submitted that the decree passed in civil suit cancelling the gift-deed as well as compromise decree passed in the proceeding under Section 180 of the U.P. Tenancy Act, 1939 became ineffective since no steps have taken to take possession of the khata in dispute from the petitioners or their predecessor. He further submitted that no finding has been recorded by the consolidation Courts in respect of possession of khata no.45-Kha nor any evidence was produced by the private-respondents to show that they were in possession of khata no.45-Kha. He further submitted that no possession was taken over by Hari Prasad and others in respect to plots of khata no.45-Ka also. He further submitted that the impugned orders passed by the consolidation authorities should be set aside and basic year entry should be maintained.

6. On the other hand, learned Senior Counsel appearing for the private respondents submitted that the Consolidation Officer in the proceeding

under Section 9-A (2) of U.P.C.H. Act has rightly held that private respondents are entitled to be recorded over 1/2 share of plot no.45-Ka and over entire share of plots of khata no.45-Kha. He further submitted that the Consolidation Officer has taken into consideration the compromise order passed in the proceeding under Section 180 of U.P. Tenancy Act as well as the decree passed by the civil Court in respect to the gift-deed alleged to be executed in favour of the petitioners / their predecessor. He further submitted that the appeal and revision filed by petitioners have been dismissed in proper manner. He further submitted that private respondents / their predecessor are contesting since very beginning about their rightful claim, as such, there is no question of adverse possession of the petitioners or their predecessor over the plot in question. He further submitted that during consolidation, title objection was filed by respondent nos.4 to 12 for recording of their names and the same has been rightly allowed considering the compromise order passed in the proceeding under U.P. Tenancy Act which was correct exercise of jurisdiction by the Consolidation Officer. He further submitted that no interference is required in the matter and writ petition is liable to be dismissed.

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

8. There is no dispute about the fact that in the basic year of consolidation operation, petitioners/ their predecessor were recorded over the plots of khata in dispute. There is also no dispute about the fact the title objection filed by private respondents / their predecessor against the basic year entry was allowed by the Consolidation Officer and order has been

maintained in appeal as well as revision.

9. In order to appreciate the controversy involved in the matter, two issues framed by the Consolidation Officer will be relevant for perusal, which are as under:

i. क्या भगवान दास खता निजाई के तनहा हक़दार है।

ii. क्या गाटा 61 खाता 257 में दर्ज है।

10. Perusal of operative portion of the judgement / decree passed by civil Court in Civil Suit No.431 of 1937 will be relevant which is as under:

"The suit is decreed with cots a declaration that the gift deed in suit shall be null and void as against the reversioners of Musai Singh after the death of Mst. Lachmeena defdt. no.3.

21.9.38"

11. Consolidation Officer has afforded opportunity to the parties to adduce evidence and after considering the evidence adduced by the parties Consolidation Officer has held that respondents / their predecessor are entitled to be recorded over the entire area of plots of khata no.45Kha & 1/2 share of plot no.45 Ka in view of the compromise entered into in the proceeding under Section 180 of U.P. Tenancy Act. The pedigree and evidence on records demonstrate that khata in dispute belong to Musai Singh / predecessor of private respondents.

12. In the proceeding under U.P. Tenancy Act, an order was passed in favour of petitioners/ their predecessor, as such, Consolidation Officer has taken into consideration the compromise order passed in the proceeding under Section 180 of U.P. Tenancy Act. Petitioners or their predecessor

are not member of the family of Musai Singh, as such, no right can be given to the petitioners or their predecessor except compromise which has taken place in the proceeding under the U.P. Tenancy Act.

13. It is material to mention that parties are contesting since 1937-1938 before civil Court as well as revenue Court/ consolidation Court, as such, there is no question of accural of any right & title in favour of petitioners in respect to plot in question on the basis of adverse possession.

14. Considering the entire facts and circumstances of the case, no interference is required in the matter against the concurrent judgement passed by the consolidation authorities in the proceeding under Section 9-A (2) of U.P.C.H. Act.

15. The writ petition is ***dismissed***.

16. No order as to costs.

(Chandra Kumar Rai,J.)

January 08, 2025

Rameez