



2026:AHC:55355

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 1029 of 2026

Jagdish Singh And 5 Others

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s) : Surendra Tiwari

Counsel for Respondent(s) : C.S.C., Pradeep Singh, Rati Bhan Singh

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Vakalatnama filed by Mr. Gyan Prakash Ojha, Advocate on behalf of respondent no.5 is taken on record.
2. Heard Mr. Surendra Tiwari, learned Counsel for the petitioners, Mr. Gyan Prakash Ojha, learned Counsel for respondent no.5 and Mr. Hari Mohan Srivastava, learned Additional Chief Standing Counsel for the State respondents.
3. With the consent of learned Counsel for the parties, the instant petition is heard finally without inviting counter affidavit.
4. Respondent no.6 is stated to be proforma respondent, as such, notice to respondent no.6 is dispensed with.
5. Brief facts of the case are that suit under Section 229B of U.P. Zamindari Abolition and Land Reforms Act, 1950 hereinafter referred to as U.P.Z.A. and L.R. Act was filed by Jagdish Singh father of petitioner nos. 1/1 to 1/5 impleading the Jomdhari as defendant. In the aforementioned suit, the written statement was filed by respondent no.5- Jomdhari. The aforementioned suit was dismissed in default on 11.1.2016. Against the dismissal of suit in default on 11.1.2016, restoration application along with the affidavit and prayer for condonation of delay was filed by Jagdish Singh himself. During pendency of restoration application, Jagdish Singh has expired and accordingly substitution application has been filed on behalf of petitioner nos. 1/1 to 1/5 being son, wife and daughter of deceased- Jagdish Singh. Against the

aforementioned application, objection was filed by State with the prayer that restoration application dated 11.7.2023 be rejected. Additional Sub Divisional Officer Robertsganj Sonbhadra vide order dated 31.7.2025 allowed the restoration application dated 11.7.2023 setting aside the order dated 11.1.2016 and restored the suit to its original number for fresh decision in accordance with law. Sub Divisional Officer vide another order dated 30.8.2025 allowed the substitution application of deceased-Jagdish Singh and fixed the suit in evidence of the parties as issues have already been framed in the suit on 8.6.2011. Against the order dated 31.7.2025, respondent no.5 filed appeal before Commissioner which was dismissed, appeal under Section 331 (3) of U.P.Z.A. and L.R. Act before the Commissioner which was heard and dismissed vide order dated 5.2.2026. Against the same very order of Additional Sub Divisional Officer dated 31.7.2025, a revision under Section 333 of U.P.Z.A. and L.R. Act has been filed by respondent no.5 before Board of Revenue which has been allowed in part setting aside the order dated 31.7.2025 and remitted the matter back before the Trial Court to pass order for substitution and then proceed to decide the suit on merit after affording opportunity of hearing to the parties. Hence this petition has been filed for the following reliefs:-

"(i) Issue a writ, order or direction in the nature of certiorari calling for the records and to quash the impugned order dated 28.1.2026 passed by the Board of Revenue U.P. at Allahabad (respondent no.2) in revision No. 4435 of 2025 (Computerized case No. AL20251666004435) Jomdhari Vs. Additional Sub Divisional Magistrate Robertsganj, Sonbhadra and Others to the extent of setting aside the order dated 31.7.2025 passed by Additional Sub Divisional Magistrate/ Upper Up Jiladhikari Robertsganj, Sonbhadra (respondent no.3) thereby allowing the restoration/ recall application dated 11.7.2023 and to maintain/ restore the order dated 31.7.2025 passed by respondent no.3.

(ii) Issue a writ, order or direction in the nature of mandamus commanding and directing the Additional Sub Divisional Magistrate/ Upper Up Jiladhikari Robertsganj, Sonbhadra to decide the case/ original suit No. D202416660001897/ D2012166600111 (Jagdish (deceased) and Others Vs. Jomdhari) under Section 229-B of U.P.Z.A.

and L.R. Act on merit within some stipulated period."

6. Counsel for the petitioners submitted that suit under Section 229-B of U.P.Z.A. and L.R. Act filed by Jagdish Singh was dismissed in default but on the restoration application filed by Jagdish Singh himself, the order dismissing the suit in default has been set aside and suit has been restored to its original number in proper manner. He submitted that substitution application to substitute the legal heirs of deceased Jagdish Singh was also allowed by separate order. He submitted that against the order restoring the suit to its original number, appeal filed by private respondent no.5 was dismissed but revision filed against the same order has been allowed by Board of Revenue on misconceived ground. He submitted that there was no occasion to exercise the revisional jurisdiction by Board of Revenue as restoration application and substitution application have been allowed in proper manner resulting into to decide the suit for declaration on merit in accordance with law. He submitted that impugned order passed by Board of Revenue should be set aside and Trial Court be directed to decide the suit in accordance with law after affording proper opportunity to parties to lead evidence in the suit.

7. On the other hand, learned Counsel for respondent no.5 submitted that the Trial Court has illegally allowed the restoration application without passing any order on the substitution application of deceased Jagdish Singh. He submitted that substitution matter should be decided first and thereafter restoration proceeding should be taken into consideration. He submitted that there was delay in initiating the restoration proceeding, as such, opportunity should be afforded to respondent no.5 to file objection but restoration application has been allowed in illegal and arbitrary manner. He submitted that Board of Revenue has rightly exercised the revisional jurisdiction setting aside the order allowing the restoration application. He submitted that under the impugned order of Board of Revenue, the substitution matter and restoration matter shall be taken into consideration in proper manner after giving opportunity to respondent no. 5 to file objection against the restoration proceeding as well as substitution proceeding. He submitted that no interference is required against the impugned order and writ petition is liable to be dismissed.

8. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

9. There is no dispute about the fact that suit under Section 229-B of U.P.Z.A. and L.R. Act filed by Jagdish Singh was dismissed in default and on the restoration application filed by Jagdish Singh himself, the suit has been restored. There is also no dispute about the fact that after restoring the suit, the substitution application filed by legal heirs of Jagdish Singh has also been allowed and the suit has been fixed for evidence of the parties.

10. It is material to mention that the restoration application filed by plaintiff - Jagdish Singh himself dismissing the suit for non-prosecution has been allowed and substitution application filed by legal heirs of Jagdish Singh has also been allowed in proper manner, as such, there was no occasion for the Board of Revenue to set aside the order restoring the suit to its original number and directing the Trial Court to consider the substitution matter first and thereafter restoration matter. The suit under Section 229-B of U.P.Z.A. and L.R. Act are a suit of special character, as such, the same should be decided on merit in accordance with law rather on technical consideration.

11. Considering the entire facts and circumstances of the case, the impugned revisional order dated 28.1.2026 passed by respondent no.2, Board of Revenue, U.P. at Prayagraj is liable to be set aside and the same is hereby set aside. Writ petition stands **allowed**. The order dated 31.7.2025 and 30.8.2025 passed by Trial Court are maintained. The Trial Court/ Additional Sub Divisional Officer Robertsganj is directed to decide the aforementioned suit on merit after affording proper opportunity to the parties to lead evidence in the suit expeditiously preferably within period of **six months** from the date of production of certified copy of this order.

(Chandra Kumar Rai,J.)

March 18, 2026

Vandana Y.