



2026:AHC:62518

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 1100 of 2026

Radha Krishan And 2 Others

.....Petitioner(s)

Versus

Deputy Director Of Consolidation And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Agnivesh, Jadu Nandan Yadav
Counsel for Respondent(s)	:	C.S.C.

Court No. - 54

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. J.N. Yadav, learned counsel for the petitioners and Mr. Sanjay Kumar Ray, learned Standing Counsel for the State-respondents.

2. The instant writ petition has been filed for the following relief:-

"(i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 16.12.2025 passed by respondent no.1 and order dated 29.04.2025 passed by respondent no.2 (Annexure no.1 and 2 to the writ petition)."

3. Learned counsel for the petitioners submitted that restoration application filed by father of private respondent is highly time barred, as such the delay condonation matter should be decided first. He submitted that application was filed on behalf of the petitioners before consolidation officer that delay condonation matter should be decided first but petitioners' application has been rejected holding that both the matter, delay condonation as well as merit shall be heard together. He further submitted that revision filed by the petitioners has also been dismissed by Deputy Director of Consolidation in arbitrary manner. He placed reliance upon the judgment of Division Bench of this Court reported **2022 (155) R.D.309, Ram Prakash Vs. Deputy Director of Consolidation and Others** in which it has been held that while deciding a time barred proceeding, the delay condonation matter should be considered and disposed of first before

deciding the proceeding on merit.

4. Learned Standing Counsel for the State-respondents submitted that no interference is required as delay condonation matter as well as restoration matter are pending before the consolidation officer, which shall be decided in proper manner.

5. I have considered the arguments advanced by the learned counsel for the petitioner, learned Standing counsel for the State-respondents and perused the record.

6. There is no dispute about the fact that proceeding under Section 9-A (2) of U.P.C.H. Act initiated by father of respondent nos.3 to 5 was dismissed for non-prosecution on 12.12.1995 and the restoration application filed by father of private respondents was also rejected in the year 2007. He submitted that restoration application has been filed along with the prayer for condonation of delay on behalf of father of respondent nos.3 to 5 which is pending before the consolidation officer.

7. Division Bench of this Court in **Ram Prakash (Supra)** held that while deciding a time barred proceeding, the delay condonation matter should be considered and disposed of first before deciding the proceeding on merit. Paragraph Nos. 19, 20, 21, 22 and 23 of the judgment rendered in **Ram Prakash (Supra)** will be relevant which are as follows:-

"19. We are not going into the issue as to whether an order passed by appellate authority on an application seeking condonation of delay is an interim order or final as the same has not been referred for consideration by the Division Bench. Different situations may arise in an appeal filed along with application seeking condonation of delay. Firstly, the application for seeking condonation of delay may be dismissed. As a consequence thereof, the appeal will also fail. Another situation may be that application seeking condonation of delay is allowed and thereafter the appeal may either be accepted or rejected.

20. If any statute provides certain period for filing of appeal, an appeal filed beyond the time limit will certainly be not entertained. If the provisions of 1963 Act are applicable and party is entitled to seek condonation of delay in filing appeal, an application has to be filed specifying the grounds on which delay in filing the appeal is sought to be condoned. It is only after that the application is allowed, the appeal can be entertained and heard on merits. Before that the appeal cannot be taken up and considered on merits.

21. As far as the issue regarding hearing of the application seeking condonation of delay and the appeal simultaneously is concerned, in our view, firstly the application has to be considered. Only thereafter, the appeal can be considered on merits but there is nothing in law which requires hearing of appeal on merits to be postponed mandatorily after acceptance of the application seeking condonation of delay. Both can be taken up on the same day. However, the appeal has to be heard on merits only after the application seeking condonation of delay has been accepted.

22. In view of the aforesaid discussion, we answer the question referred to the Division Bench that an application seeking condonation of delay has to be decided first before the appeal is taken up for hearing on merits. However, it can be on the same day and there is no requirement of adjourning the hearing of appeal on merits after acceptance of the application seeking condonation of delay.

23. Let the matter be listed before learned Single Judge as per roster for further proceedings in the case."

8. Considering the ratio of law laid down by the Division Bench of this Court as quoted above, the instant writ petition is finally disposed of directing the respondent no.2/Consolidation Officer, Farrukhabad to consider and dispose of the delay condonation matter first and

after disposal of delay condonation matter, the restoration application shall be considered and disposed of in accordance with law. The aforementioned exercise shall be concluded by Consolidation Officer expeditiously preferably within a period of three months from the date of production of certified copy of this order before him.

(Chandra Kumar Rai,J.)

March 24, 2026
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