



2026:AHC:49566

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 699 of 2026

Akbal

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Kailash Nath Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 54

HON'BLE DINESH PATHAK, J.

1. Instant writ petition has been filed seeking the following reliefs:-

"(i) Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 2/Settlement officer Consolidation, District Jaunpur to firstly decide the application Under Section 5 of Limitation Act/question of Limitation and maintainability of appeal no. 202454143600004609 (Durga Prasad Versus Sarkar and others) as well as appeal no. 202454143600004610 (Atul Kumar and others Versus Durga Prasad and others) Under Section 11(1) of U.P. Consolidation of Holding Act before deciding the appeal on merit situated at Village Kalyanpur Pargana Jafrabad, Tehsil Sadar, District Jaunpur,

(ii) Issue a writ order or direction in the nature of mandamus commanding the respondent no. 2/Settlement officer Consolidation, District Jaunpur to firstly decide the application/preliminary objection of the petitioner dated 15.03.2025 with in stipulated time."

2. Learned counsel for the petitioner submits that delay condonation application ought to be decided first, prior to the decision on the merits of the case. He has placed reliance upon the judgment of the Division Bench of this Court in the matter of **Ram Prakash vs. Deputy Director of Consolidation, Hardoi And Others** reported in **2022 (155) RD 309**. For ready reference, relevant paragraph Nos. 19, 20 and 21 of Ram Prakash (supra) are quoted hereinbelow:-

"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."

3. In this conspectus, as above, no useful purpose would be served by keeping this petition pending. Therefore, without entering into the merits of the case, this writ petition is finally disposed of with a direction that the Settlement Officer of Consolidation (Respondent no.2) shall decide the appeal in light of the ratio decided by the Hon'ble Division Bench of this Court in the matter of Ram Prakash (supra), expeditiously, preferably within a period of six months from the date of production of certified copy of this order.

4. With the aforesaid observation/direction, instant writ petition is finally **disposed of.**

(Dinesh Pathak,J.)

March 11, 2026

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