



2026:AHC-LKO:19121

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - B No. - 166 of 2026

Talukdar

.....Petitioner(s)

Versus

Deputy Director Of Consolidation, Sharawasti And
Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ambika Prasad Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Sri Ambika Prasad Mishra, learned counsel for petitioner as well as learned Standing Counsel for the State-respondent Nos. 1 & 2.

2. In light of the proposed order, notices to private respondent are dispensed with.

3. It has been submitted by learned counsel for petitioner that the disputed property was originally recorded in the name of Smt. Bhagwana widow of Puran on which the respondent Nos. 3 & 4 had claimed their right over the said property on the basis of an unregistered will executed by Smt. Bhagwana who had executed the said will in favour of their father namely, Bhagwan Das. After the death of Smt. Bhagwana, the land came to be recorded in the name of predecessor in interest of the petitioner on the basis of succession in place of Smt. Bhagwana through P.A. 11.

3. It is stated that it is after lapse of 20 years, respondent Nos. 3 & 4 filed an application U/S 9A(2) of U.P. Consolidation of Holdings Act before Assistant Consolidation Officer, Shrawasti praying for recording of their name on the basis of unregistered will executed by Smt. Bhagwana. It is in the proceedings U/S 9A(2) U.P. Consolidation of Holdings Act that the petitioner has filed his objections and one of the objections were that the parties had died 4 to 5 years prior. It is submitted that the case was listed before the Consolidation Officer on 20.01.2016 on which date private respondents were not present and their objections were rejected on the

ground of maintainability and also on the fact that they had not appeared to press their objections. An application for recall was filed on the very next day and again the same was rejected by means of order dated 10.02.2016 in their absence.

4. It is in the aforesaid circumstances, another application for restoration was made on 24.02.2016. On the said application, the Consolidation Officer was of the view that he has already rejected two application for restoration and his third application was not maintainable in the aforesaid circumstances and accordingly rejected the application dated 24.02.2016 by means of order dated 27.08.2018.

5. Assailing all the aforesaid orders, an appeal was filed before Settlement Officer Consolidation. Before Settlement Officer Consolidation, it was submitted that along with application for restoration, an application for substitution and on application for amendment were also preferred on 24.02.2016 which was neither considered by the Consolidation Officer and the Consolidation Officer had merely considered the application for recall without considering the application for substitution rejected the application for recall. In the aforesaid circumstances, the Settlement Officer Consolidation by means of order dated 26.11.2024 was of the view that the Consolidation Officer has committed manifest error of law in not deciding the application for substitution and merely considering the application for restoration, accordingly he allowed the appeal and remanded the matter before the Consolidation Officer to decide afresh within a stipulated time by means of order dated 26.11.2024.

6. The petitioner aggrieved by the order dated 26.11.2024 had preferred a revision before the Dy. Director of Consolidation. The Dy. Director of Consolidation also considered the entire conspectus of the facts as narrated hereinabove and also confirmed the appellate order dated 26.11.2024 and was of the view that the Consolidation Officer ought to have considered and decided the application for substitution along with application for amendment and restoration and accordingly rejected the revision and confirmed the appellate order dated 26.11.2024.

7. The petitioner by means of present writ petition has assailed the order

dated 16.09.2025 as well as 26.11.2024 passed by revisional authority and appellate authority. Learned counsel for petitioner has submitted that the application preferred by respondent itself was not maintainable inasmuch as it was preferred against a dead person and submits that the respondents were given due opportunity of hearing before the Consolidation Officer and consequently there was no error in rejecting the application for restoration on 27.08.2018.

8. After hearing learned counsel for petitioner and perusing the record, it is noticed that in the appeal preferred by private respondents in paragraph no. 4, specific allegations have been levelled regarding filing of the application for restoration on 24.02.2016 but this Court finds that in the memo of revision preferred by petitioner there is no reference with regard to the application for amendment and substitution dated 24.02.2016 and accordingly it cannot be denied that respondents had in fact moved an application for amendment and substitution along with the application for restoration. Once it has been brought to the notice of the opposite party that respondent mentioned in the objections preferred by him had died 4-5 years earlier then certainly opportunity ought to be granted to him to make necessary substitution in the array of parties and only if the substitution is not made, it is open for the competent authority to reject such an application.

9. In the present case, the private respondents themselves had moved an application for amendment and substitution and accordingly without considering the said application, the rejection of the application is clearly arbitrary and I do not find any infirmity in the findings recorded by appellate court as well as by the revisional court in this regard. This Court further finds that it cannot be denied that respondents have moved an application for amendment and substitution simultaneously with the application for restoration, and this fact has already been mentioned by the respondents in their appeal and there is no denial of this fact in the memo of revision preferred by the petitioner nor in the writ petition preferred before this court.

10. According to the aforesaid reasons, this Court does not find any infirmity in the impugned orders. The Consolidation Officer shall

certainly proceed in the matter and consider the application for amendment and substitution before proceeding to decide the application for restoration preferred by private respondents.

10. In light of the above, no interference is called for. The writ petition is devoid of merits and is accordingly **dismissed**.

(Alok Mathur,J.)

March 17, 2026

Ravi/