



2026:AHC-LKO:3988

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - B No. - 1159 of 1982

Mohd. Haneef And Others

.....Petitioner(s)

Versus

Deputy Director Conoslidation Sultanpur

.....Respondent(s)

Counsel for Petitioner(s)	:	M.A.Khan, Mohammad Aslam Khan, Mohiuddin Khan
Counsel for Respondent(s)	:	R.K.Sinha, C.S.C, Ravindra Kumar Sinha

Court No. - 22

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Sri M.A. Khan, learned Senior Advocate assisted by Sri Sadab Khan, learned counsel for the petitioners, Sri Ravindra Kumar Sinha, learned counsel for the respondents and Sri Badrish Tripathi, learned Additional Chief Standing Counsel for the State.

2. Present petition has been filed for the following relief :

"A. That by a writ of certiorari the order dated 27.1.1982 Annexure No. 7 passed by opposite-party no.1 the order dated 14.4.1980 Annexure No. 6 passed by opposite party no. 2 and the order dated 17.1.1969 passed by opposite party no.3 may kindly be quashed."

3. Facts giving rise to the present controversy is that an application was filed by Mohd. Haneef before the Consolidation Officer u/s 9 of U.P. Consolidation of Holdings Act, 1953 seeking mutation of his name in Khata Nos.236 and 237 on the basis of two sale deeds, one was executed on 25.04.1969 by Bachchu regarding

Khata No.236 which was registered on 10.06.1969 and second sale deed which was also executed on 25.04.1969 by Smt. Amina regarding Khata No.237 and same was registered on 18.06.1969. Another application was filed by the respondent-Abid Ali to mutate his name on the basis of two sale deeds, one was executed by Bachchu regarding Khata No.236 on 09.06.1969 which was also registered on 11.06.1969 and another sale deed executed by Smt. Amina on 09.06.1969 which was registered on 11.06.1969 regarding Khata No.237. The Consolidation Officer after hearing the case, observed that the thumb impression on the sale deed executed in favour of Mohd. Haneef appears to be vague. Therefore, he ignored the sale deed executed in favour of Mohd. Haneef on 25.04.1969 and directed to record the name of Abid Ali on the basis of two sale deeds both executed on 09.01.1969 but registered on 11.06.1969 regarding Khata Nos.236 and 237. The order of the Consolidation Officer was challenged by Mohd. Haneef before the Settlement Officer of Consolidation in appeal but the appeal was dismissed, thereafter, revision was filed before the Deputy Director of Consolidation. The Deputy Director of Consolidation also confirmed the finding of the Consolidation Officer as well as Settlement Officer Consolidation and dismissed the revision filed by Mohd. Haneef. Therefore, present writ petition has been filed challenging all the three above orders.

4. Learned counsel for the petitioners has submitted that the sale deed executed in his favour by the tenure holder of the land in question namely, Bachchu and Smt. Amina were earlier to the sale deed executed by Bachchu and Smt. Amina in favour of the private respondent, Abid Ali. It is further submitted that though the sale deed regarding Khata No.237 was registered on 18.06.1969 and the sale deed regarding Khata No.236 was registered on

10.06.1969 but in view of Section 47 of the India's Registration Act, 1908 (in short 'the Act, 1908'), the registration of sale deed relates back to the date of execution, therefore, the sale deeds executed in favour of the petitioners will deem to have transferred the right in his favour on 25.04.1969 and merely because subsequent sale deed dated 09.06.1969 regarding Khata No.237 executed in favour of respondent-Abid Ali registered prior to the registration of the sale deed of the petitioners will not have any effect, as moment the sale deed of the petitioners was registered on 18.06.1969, it will relate back to the date of execution i.e. 25.04.1969. It is also submitted by learned counsel for the petitioners that the consolidation authorities merely on the basis of report of a hand writing expert declared the valid sale deed in favour of the petitioners as void, though, the consolidation authority has no right to cancel the sale deed. In support of his contention, learned counsel for the petitioners has relied upon the judgements of the Apex Court in the case of **Kanwar Raj Singh (D) Through Legal Representatives Vs. GEJO (D) THROUGH LEGAL REPRESENTATIVES AND OTHERS** reported in **(2024) 2 SCC 416** and **Hamda Ammal Vs Avadiappa Pathar and 3 Others** reported in **(1991) 1 SCC 715** and judgements of this Court in **Salik Ram And Others Vs. Deputy Director of Consolidation, Shravasti And Others** reported in **2025 (1) ADJ 290 (LB)**, **Mithilesh and others Vs. Deputy Director of Consolidation and Others** reported in **2017 (139) RD 488** and **Matlub and others Vs. State of U.P. and others** reported in **2017 (139) RD 491** and judgements of Punjab and Haryana High Court in the cases of **Milkha Singh and Another Vs. Tara Singh and others** reported in **AIR 1973 Punjab and Haryana 445 (V 60 C 125)**.

5. Per contra, learned counsel for the respondents has submitted that even though the sale deed regarding Khata Nos. 236 and 237 had been executed in their favour subsequent to the date of execution to the petitioners but the sale deed dated 09.01.1969 of respondents regarding Khata No.237 was registered on 11.06.1969. On that date, the sale deed dated 09.06.1969 regarding Khata No.237 has become absolute and the title has been transferred in favour of the respondents, even though an unregistered sale deed was executed on 25.04.1969 in favour of the petitioners but that does not transfer any title to petitioners in view of Section 54 of the Transfer of Property Act, 1882 (in short 'the Act, 1882') and merely because earlier registered sale deed dated 25.04.1969 regarding Khata No.237 has been subsequently registered on 18.06.1969 will not pass any title as the same has already been transferred in favour of the respondents on 09.06.1969 in view of registration of sale deed on 11.06.1969. It is further submitted by learned counsel for the respondents that the consolidation authorities ignored the sale deeds of petitioners being forged and in the present case also, there is concurrent finding that as per the report of hand writing expert, thumb impression of the vendor Bachchu was not found to be genuine, therefore, consolidation authority has rightly ignored the sale deed executed in favour of the petitioners. In support of his contention, learned counsel for the respondents has relied upon the judgement of this Court in **Jokhu Vs. Deputy Director, Consolidation, Pratapgarh and Others** reported in **2018 (36) LCD 453**; **Ram Padarath And Others Vs. IInd Addl. Distt. Judge, Sultanpur and others** in **Writ Petition No.1732 of 1982 and others**; and the Apex Court in the cases of **Ghanshyam Sarda Vs. Sashikant Jha, Director, M/s J.K. Jute Mills Company Limited And Others**, reported in **(2017) 1 SCC 599**; **Jaspal**

Singh Vs. State of Punjab reported in **AIR 1979 Supreme Court 1708**; **Asiatic Steam Navigation Co. Ltd. Vs. Sub-Lt, Arabinda Chakravarti** reported in **AIR 1959 Supreme Court 597 (V 46 C 83)** and; **Kanwar Raj Singh (D) TH LRS Vs. GEJO (D) TH LRS & ORS** reported in **2024 LawSuit (SC) 1**.

6. After hearing the submission of learned counsel for the parties and on perusal of record, following questions arise for determination :

(i) Whether the consolidation authorities have power to ignore the sale deed which was not challenged or objected by its executor?

(ii) Whether the sale deed executed earlier but registered subsequently to registration of second sale deed of the same property will be valid?

7. Law regarding registration of sale deed has been prescribed u/s 54 of the Act, 1882, which is being quoted as under:

"54. "Sale" defined.—"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made.—

Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.—

A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property."

8. From perusal of the Section 54 of the Act, 1882, it is clear that the transfer in case of tangible immovable property of value one hundred and upward can be made only by registered instrument. Therefore, an immovable property will not be effected unless the instrument of transferring is registered. Therefore, even if a sale deed is executed regarding immovable property but it is not registered then this document will not have any effect as this will not pass any title to the vendee. However, Section 47 of the Act, 1908 provides that effective date of operation of a registered sale deed would be date of its execution not the date of registration. Therefore, till any sale deed of immovable property is registered, it will not have any effect and as soon as it is registered then the effective date of transfer of title would be the date of execution of sale deed. Section 47 of the Act, 1908 is being quoted as under :

"47. Time from which registered document operates.—A registered document shall operate from the time which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration."

9. The Hon'ble Apex Court in the case of **Kanwar Raj Singh (supra)** has observed that if a unilateral interpolation is made in the sale deed after its execution but before its registration then the original sale deed will be effected from the date of its execution. Paragraph nos.8, 9 and 11 of the said judgement are being quoted as under:

"8. The Constitution Bench held that Section 47 of the Registration Act does not deal with the issue when the sale is complete. The Constitution Bench held that Section 47 applies to a document only after it has been registered, and it has nothing to do with the completion of the sale when the instrument is one of sale. It was also held that once a document is registered, it will operate from an earlier date, as provided in Section 47 of the Registration Act."

9. Section 54 of the Transfer of Property Act, 1984 (the Transfer of Property Act) reads thus:

"54. "Sale" defined.-*"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.*

Sale how made.-*Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other Intangible thing, can be made only by a registered instrument. In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered Instrument or by delivery of the property.*

Delivery of tangible Immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.-*A contract for the sale of immoveable property is a contract that a sale of such/property/shall take place on terms settled between the parties.*

It does not, of itself, create any interest in or charge on such property."

11. Now, coming to the facts of this case, the consideration was entirely paid on the date of the execution of the sale deed. The sale deed was registered with the interpolation made about the description/area of the property sold. The first defendant admittedly made the said Interpolation after it was executed but before it was registered. In terms of Section 47 of the Registration Act, a registered sale deed where entire consideration is paid would operate from the date of e date of its execution. Thus, the sale deed as originally executed will operate. The corrections unilaterally made by the first defendant after the execution of the sale deed without the knowledge and consent of the purchaser will have to be ignored. Only if such changes would have been made with the consent of the original plaintiff, the same could relate back to the date of the execution. It is not even the first defendant's case that the subsequent correction or interpolation was made before its registration with the consent of the original plaintiff. Therefore, in this case, what will operate is the sale deed as it existed when it was executed."

10. Hon'ble Apex Court in the case of **Hamda Ammal (supra)**, has observed that in view of Section 47 of the Act, 1908 as soon as the sale deed is registered then it will relate back to the date of execution of the sale deed. Therefore, if any attachment is made after the execution of sale deed but prior to its registration then as soon as

the sale deed is registered, it will effected from the date of execution of sale deed and attachment will not have any effect. Paragraph nos.4, 5 and 6 of the said judgement are being quoted as under:

"4. Section 54 of the Act defines sale as "a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised". Thus after the execution of the sale deed with consideration all the ingredients of sale are fulfilled except that in case of tangible immovable property of the value of Rs 100 and upwards it can be made only by registered instrument. Now, if we read Section 47 of the Registration Act, it clearly provides that a registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made and not from the time of its registration. This provision makes it clear that after the registration it will relate back to the date of execution of the sale deed. The act of registration is to be performed by the registering authority. According to Section 23 of the Registration Act a document of the nature of sale deed shall be accepted for registration within four months from the date of its execution. Thus a statutory period of four months has been provided for presenting the sale deed for registration from the date of its execution. In case of dispute regarding the execution of the document an enquiry is permitted under Section 74(a) of the Registration Act and that may also take some time. The legislature being alive to such situations has already provided in Section 47 of the Registration Act that it shall operate from the time from which it would commence to operate if no registration thereof had been required or made and not from the time of its registration. Thus in our view the vendee gets rights which will be related back on registration from the date of the execution of the sale deed and such rights are protected under Order XXXVIII Rule 10 CPC read together with Section 47 of the Registration Act.

5. We cannot accept the contention of learned counsel for the respondent that till registration, the execution of the sale deed does not confer any rights whatsoever on the vendee. Even Section 49 of the Registration Act in its proviso inserted by Section 10 of the Transfer of Property (Amendment) Supplementary Act, 1929, negatives the above contention of the learned counsel. The above provision lays down that an unregistered document affecting immovable property and required by this Act or by the Transfer of Property Act, 1882, to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877, or as an evidence of part performance of a contract for the purposes of Section 53-A of the Transfer of Property Act, 1882, or as evidence of any collateral transaction not required to be effected by registered instrument. Thus even an unregistered document can be

received as evidence for purposes mentioned in the proviso to Section 49 of the Registration Act.

6. Learned counsel for the respondents also made the submission that even if the sale deed which is executed earlier to attachment before judgment and registered subsequently may be binding on the vendors but it would not affect the rights of such respondent who is a third party, in the sense that he was not a party to the sale deed and he got the right in the property in a court sale having taken place after the passing of final decree in the money suit filed by Avadiappa. In other words the contention is that respondent 5 Shri M.S.A. Kadar got rights in the property in the court sale made in his favour after the decree passed in favour of Avadiappa in the money suit filed on September 13, 1970. We do not find any force at all in the above submission. The property in question admittedly belonged to the defendant-judgment debtors (vendors) and once it is held that a sale deed had already been executed by them in favour of Hamda Ammal on September 9, 1970 and only its registration remained, then neither the attachment before judgment nor a subsequent attachment or court sale in favour of respondent 5 can confer any title in his favour by preventing the relation back. The fact that the document of sale had not been registered until after the attachment makes no difference."

11. The Division Bench of Punjab and Haryana High Court in the case of **Milkha Singh (supra)** has also observed that title in property passes from the date of execution of sale deed and not from the date of registration. Paragraph nos.13 and 14 of the said judgement are being quoted as under :

"13. Before I come to the authorities mentioned above. I may state that in Punjab when immovable property of the value of Rs. 100/- and upwards is sold, the sale-deed has to be registered. There is no quarrel About the proposition that such a sale-deed will be complete only when it is registered. It is undisputed that the registration will be complete only when the sale-deed is copied out in the records of the Registration Office as provided in Section 61 of the Registration Act. But the title in the property on registration will, however, pass to the vendees from the date when the said deed was executed. This is by virtue of the provisions of Section 47 of the Registration Act, which lay down:

"A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration."

14. A bare reading of this provision will show that the registered document will operate from the time from which it

would have commenced to operate, if no registration thereof was required by law and not from the time of its registration. Admitted-this document, as I have already said, was executed on 28th October, 1960. If under the law, it was not required to be registered, it would have operated from the time it was executed. But it had to be registered under the law and, therefore, under the pro-visions of Section 47 of the Registration Act, it would operate on the date when it was executed, but that would happen only if it was subsequently registered. If it was not registered, no title in the property would pass to the vendees under it. However, the moment It was registered the title in the property would pass to the transferees from the date f its execution."

12. The Apex Court in the case of **Ghanshyam Sarda (supra)** has observed that in view of section 54 of the Act, 1882 any tangible immovable property will become effective only after registration of instrument but effective date would be from the date of its execution not from the date of registration. Therefore, till any sale deed is registered, mere execution thereof has no value and no right would be transferred. Paragraph nos.18 and 19 of the said judgement are being quoted as under:

"18. The order of 8-5-2014 [Ghanshyam Sarda v. Shiv Shankar Trading Co., (2015) 1 SCC 298, 316 (footnote 14)] had directed that "... capital assets of the Company shall not be disposed of without taking permission of this Court". The expression "shall not be disposed" in the context connotes action or process of sale of assets. Going by Section 54 of the Transfer of Property Act, 1882, transfer of any tangible immovable property of the value of Rupees hundred and upwards can be made only by a registered instrument. The expression "only" in the section is significant. The transfer comes into effect and becomes valid and effective only by a registered instrument. It is true that the document was sought to be registered in April 2013 but the registration in question was duly effected only on 2-7-2014. In the eye of the law, it is this document registered on 2-7-2014 which alone effectuates transfer of interest in Katihar property in favour of the transferee. The transfer was thus effected on 2-7-2014 i.e. well after the order of 8-5-2014. In Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana [Suraj Lamp & Industries (P) Ltd. (2) v. State of Haryana, (2012) 1 SCC 656 : (2012) 1 SCC (Civ) 351], this Court had observed as under : (SCC p. 666, para 19)

"19. Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of Sections 54 and 55 of the TP Act and will

not confer any title nor transfer any interest in an immovable property (except to the limited right granted under Section 53-A of the TP Act). According to the TP Act, an agreement of sale, whether with possession or without possession, is not a conveyance. Section 54 of the TP Act enacts that sale of immovable property can be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject-matter."

19. *The document dated 4-4-2013 did not by itself create any interest nor did the title pass upon execution of such document on 4-4-2013 but it was only after the registration on 2-7-2014 that the title in Katihar property passed from the Company in favour of the transferee. The submission of the contemnors however, is that by virtue of Section 47 of the Registration Act, the document in question would operate from 4-4-2013. In our view, the principle embodied in Section 47 of the Registration Act is completely for different purposes. Insofar as the issue of transfer is concerned, Section 54 of the Transfer of Property Act is the governing principle, which is quite clear. It is the date of registration of document which is crucial inasmuch as the transfer is effected and the title passes only upon registration. Viewed thus, it is clear that Katihar property was transferred in the teeth of the order of 8-5-2014 [Ghanshyam Sarda v. Shiv Shankar Trading Co., (2015) 1 SCC 298, 316 (footnote 14)] and ex facie there has been violation of the order passed by this Court. It is crucial to note that on 8-5-2014 [Ghanshyam Sarda v. Shiv Shankar Trading Co., (2015) 1 SCC 298, 316 (footnote 14)] , the Company had appeared on caveat before this Court and certainly had express knowledge about the order of 8-5-2014 [Ghanshyam Sarda v. Shiv Shankar Trading Co., (2015) 1 SCC 298, 316 (footnote 14)] . It was party to the proceedings and was bound by the order passed by this Court in every respect."*

13. In the case of **Mithlesh (supra)**, the Single Judge of Allahabad High Court has observed that after execution of the sale deed of a land executant lost his title over the land in question and any subsequent sale deed though registered regarding the same land is void.

14. From the perusal of the above discussion, it is clear that any sale deed would be effective only after its registration, therefore, if a sale deed is executed regarding a land without registration then if second sale deed is executed and also registered then the title regarding immovable property will pass through the second sale deed. Therefore, the earlier unregistered

sale deed would be void even though same is registered subsequently to registration of the second sale deed because on the date of registration of a sale deed, title was already transferred regarding the property by a sale deed, though, executed subsequently but registered prior to the registration of the earlier sale deed as the document regarding transfer of property having value more than one hundred will not have any effect unless it is registered.

15. So far as the question regarding jurisdiction of consolidation authority to ignore or cancel the sale deed is concerned, the law is summarized as follows.

16. The Full Bench of Allahabad High Court in the case of **Ram Nath Vs. Munna** reported in **1976 RD 220**, has observed that the consolidation authorities had no jurisdiction to cancel or ignore a voidable document because in such cases, civil court is only a proper forum to determine the validity of document or sale deed. However, if a sale deed or any document is void then the consolidation authorities have jurisdiction to disregard the same while determining the title to the land. The relevant extract of **Ram Nath case (supra)** is being quoted as under:

"The Full Bench observed that the documents which are voidable can be cancelled by the Civil Court only and the consolidation authorities have no jurisdiction to ignore those documents, instead they are under a duty to give effect to these documents till they are cancelled by a competent Court of law. If a sale-deed or document of transfer is void the consolidation authorities have jurisdiction to disregard the same while determining title to the land but if the document is voidable then the consolidation authorities have no jurisdiction to disregard sale-deed in that even the Civil Court is the only proper forum to adjudicate upon the validity of the sale-deed and the consolidation authorities are bound to give effect to the sale-deed."

17. Hon'ble Apex Court in the case of **Ningawwa Vs. Byrappa** reported in **(1968) 2 SCR 797** has observed

that contract or transaction induced or tainted by fraud is not void but only voidable at the option of the party defrauded, therefore, unless the civil court cancels such document, it would be binding. Paragraph no.4 of the said judgement is being quoted as under:

"4..... It is well established that a contract or other transaction induced or tainted by fraud is not void, but only void-able at the at the option of the party defrauded. Until it is avoided, the transaction is valid, so that third parties without notice of the fraud may in the meantime acquire rights and interests in the matter which they may enforce against the party defrauded. "The fact that the contract has been induced by fraud does not make the contract void or prevent the property from passing, but merely gives the party defrauded a right on discovering the fraud to elect whether he shall continue to treat the contract as binding or disaffirm the contract and resume the property. If it can be shown that 'the party defrauded' has at any time after knowledge of the fraud either by express words or by unequivocal acts affirmed the contract, 'his' election is determined for ever. The party defrauded may keep the question open so long as he does nothing to affirm the contact."

18. The Single Judge of Allahabad High Court in the case of **Salik Ram And Others Vs. Deputy Director of Consolidation, Shravasti And Others** reported in **2025 (1) ADJ 290 (LB)** has also relied upon the judgement of the Full Bench as well as other judgements of Apex Court and observed that if there is allegation of fraud in execution of document then such document is voidable and that cannot be ignored by the consolidation authorities and only a civil court has jurisdiction to cancel such document.

19. In view of the above position, it is clear that if the sale deed is void that does not require any adjudication to decide its validity then same can be ignored by the consolidation authorities but if a sale deed is voidable on the ground that it was obtained by fraud or misrepresentation then such sale deed cannot be ignored by the consolidation authorities till the civil court decides its validity at the instance of person defrauded.

20. The Full bench of Allahabad High Court in the case of **Ram Padarath (supra)** has also observed that the consolidation court can ignore void document. Paragraph nos.22, 23 and 40 of the said judgement are being quoted as under:

"22. The jurisdiction of the consolidation authorities or courts is wider than that of civil or revenue court and adjudication by them is final and cannot be responded by any civil or revenue court in view of bar for the same contained in Section 49 of U. P. Consolidation of Holdings Act which even bars, the case which should have been raised before the consolidation authorities, but not raised. The decisions given under U. P. Consolidation of Holdings Act even in respect of void documents do not throw light conclusively regarding jurisdiction of civil court and revenue court with reference to Section 331 of U. P. Zamindari Abolition and Land Reforms Act. The provisions of Section 331 of the 'Act' cannot be interpreted with reference to the provisions of or language used in U. P. Consolidation of Holdings Act. It is sound principle of interpretation that provisions of another Act are not to be taken as guide for interpreting the provisions of another Act which are not in pari materia with the former Act. The cases under U. P. Consolidation of Holdings Act regarding the jurisdiction of consolidation authorities throw great light on the question of extent or exclusiveness of the jurisdiction of revenue and civil court but they do decide or resolve this controversy fully.

23. In support of the plea that relief for cancellation of void documents is uncalled for and the revenue court cannot grant the real and substantial relief, reference to certain decided cases was made.

24. The first case cited was of Rasool Ahmad v. Beni Prasad, 1965 ALJ 70. In the said case the plaintiff's suit claiming tenancy rights and for declaration that he was hereditary tenant was dismissed upto High Court. Subsequently, he filed a suit in revenue court that he was 'occupancy tenant, which too was dismissed. Thereafter he took third innings and filed a civil suit for cancellation of lease deed executed by the Zamindar which document also figured in the revenue court. In these circumstances it was held that the suit was not cognizable by the civil court."

21. The judgement of this Court in the case of **Jokhu (supra)** relied upon by learned counsel for the respondents is not applicable in the present case because in that case, the sale deed was void on the ground that it was not only executed by fraudulent

misrepresentation as to its character but also to its content but in the present case, there is nothing on record which could establish that fraud has been committed by the petitioners to such extent that made the sale deed void as merely observation of consolidation authorities that the thumb impression of Bachchu on the sale deed could not be matched with the thumb impression found in the register for the reason that thumb impression was blurred will not make the sale deed void but voidable at the instance of the executor Bachchu, though Bachchu as well as his wife Smt. Amina never objected the sale deed executed in favour of the petitioner, Mohd. Haneef. On the contrary, during the mutation proceeding before the Tehsildar, they admitted the fact that they have executed the sale deed in favour of Mohd. Haneef & anothers.

22. But so far as the judgement in the case of **Jaspal Singh (supra)** is concerned, in that case, the Hon'ble Apex Court has observed that the report of expert regarding thumb impression is a scientific evidence that cannot be easily ignored by the court. But in the present case, there is no specific report of the expert showing the thumb impression on the sale deed executed by Bachchu regarding Khata No.236 is forged and merely because comparable thumb impression is blurred cannot be a ground to declare a sale deed as a void document. Therefore, this judgement will also not help learned counsel for the respondents.

23. Argument of learned counsel for the respondents that Hon'ble Apex Court in the case of **Asiatic Steam Navigation (supra)** has observed that concurrent finding of the court should not be disturbed by higher court is concerned, there is no dispute about it but if the finding itself is against the law then same can be interfered with

and can be set aside.

24. From the above discussion, issues framed are decided as follows:

(i) The consolidation court can ignore void document while deciding the title dispute but it cannot decide the validity of a document which is voidable on the ground of fraud or misrepresentation and the validity of the same can be decided by the civil court;

(ii) any sale deed does not transfer any title unless it is registered and if before its registration another sale deed is executed and registered then the title is transferred on the basis of subsequent sale deed and thereafter, registration of earlier sale deed would be void as on the date of registration the executor does not have any title, same has already been passed to the vendee to subsequent sale deed immediately on registration of the same.

Conclusion:

25. Therefore the sale deed dated 09.06.1969 regarding Khata No.237 executed by Smt. Amina in favour of Abid Ali which was registered on 11.06.1969 will be a valid sale deed and prevail over the sale deed executed by Smt. Amina regarding Khata No.237 on 25.04.1969 but registered on 18.06.1969. Similarly, sale deed executed by Bachchu regarding Khata No.236 on 25.04.1969 and registered on 10.06.1969 will prevail over the sale deed dated 09.06.1969 of respondents and registered on 11.06.1969.

26. In view of the above, present petition is **partly allowed** and impugned judgement of Deputy Director of Consolidation, Mustafabad, Sarriya, Sultanpur and Consolidation Officer, Mustafabad, Sarriya, Sultanpur are

hereby set aside, so far as their finding regarding sale deed dated 25.04.1969 of petitioners regarding Khata No.236 registered on 10.06.1969 as well as sale deed dated 09.06.1969 registered on 11.06.1969 executed in favour of Abid Ali. As the sale deed executed in favour of Abid Ali by Smt. Amina was registered subsequent to the registration of sale deed dated 25.04.1969 in favour of Mohd. Haneef and another, hence will not pass any title as same has already been transferred in favour of Mohd. Haneef.

27. Matter is remanded back to the Consolidation Officer to pass fresh order regarding mutation of the parties regarding Khata No.236 in the light of the observation made hereinabove.

(Arun Kumar Singh Deshwal,J.)

January 19, 2026
S.C.