



2026:AHC-LKO:2346

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - B No. - 11 of 2026

Ramjage And 10 Others

.....Petitioner(s)

Versus

Deputy Director Of Consolidation, Barabanki And
Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ghufran Hussain
Counsel for Respondent(s)	:	C.S.C., Adarsh Tripathi, Pradeep Kumar

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Sri Ghufran Hussain, learned counsel for the petitioners as well as learned Standing counsel for respondent No.1 on behalf of respondent No.1 and Shri Pradeep Kumar, who has filed his vakalatnama on behalf of respondent No.s 2 to 5.
2. By means of the present writ petition, the petitioners have challenged the order of the Deputy Director of Consolidation dated 8.9.2025, thereby allowing the revision preferred by the private respondents, setting aside the order of Consolidation Officer dated 13.9.2018 as well as order of Settlement Officer of Consolidation dated 27.4.2023 and directing the parties to maintain status-quo ante and also for recording the name of co-tenants in the revenue records.
3. It has been submitted by learned counsel for the petitioners that the dispute in the present case pertains to Khata no.25 situated in Village Sohilpur, Pargana Satrikh, Tehsil Nawabganj, District Barabanki (old No.24), which according to the petitioners initially was recorded in the name of Mangre.
4. It has been submitted that Mangre had two sons, namely, Gayadeen and Parmeshwar and all the petitioners are descendants of Mangre.

On the other hand, the opposite parties are the sons of Sitaram, who is the grandson of Anganu and according to the opposite parties the land belonged to Anganu, who had four sons, namely, Mangre, Mataee, Garibe and Sahai and accordingly claimed co-tenancy in the disputed land along with the petitioners.

5. It has been submitted that a suit under Section 229 B of U.P.Z.A. and L.R. Act was filed by the private respondents before the Additional Officer, First/Assistant Collector, Barabanki who had dismissed the suit proceedings on the ground of maintainability. He was of the view that the suit proceedings were barred by Section 49 of the Consolidation of Holdings Act, which was decided by order No.4, which was framed by him. The suit was accordingly dismissed on the aforesaid ground by means of the order dated 4.4.1978 and subsequently the private respondents preferred an appeal before Additional Commissioner, Faizabad where also the order dated 4.4.1978 was affirmed and the appeal was dismissed on 21.2.1979. The appellate authority also noticed that the suit was defective for non compliance of Section 117 of U.P.Z.A. and L.R. Act and despite opportunity given to the private respondent to make necessary amendments, no action was taken by them. Apart from the aforesaid fact the suit was barred under Section 49 of the Consolidation of Holding Act and he was of the view that it is only on the ground of maintainability that the appellate authority was of the view that the suit proceedings had rightly been rejected.
6. Subsequently, the private respondents moved an application under Section 34/35 of U.P. Land Revenue Act before the Naib Tehsildar, who by means of the order dated 13.2.1987 allowed their application and their names were also added in the revenue record along with the predecessor-in-interest of the petitioners.
7. Counsel for the petitioners submits that the order dated 13.2.1987 was passed on the basis of compromise but in fact was never entered by the petitioner and they were not aware of the proceedings before Naib Tehsildar and accordingly had moved an application for recall.

It has been submitted that it is during the pendency of the recall application that the notification under Section 4 of the Consolidation of Holdings Act was passed and accordingly the proceeding stood abated.

8. It is onset of a fresh consolidation proceedings that the objections were filed by both the parties under Section 9A(2) before the Consolidation Officer, which came to be decided by means of the order dated 13.9.2018.
9. Before the Consolidation Officer, it was contended on behalf of the petitioners that the dispute is no longer *res-integra* in as much as the same has been decided by the competent authority under Section 229 of U.P.Z.A. and L.R. Act and the suit filed by the private respondents has been rejected by means of order dated 4.4.1978 and even the appeal preferred by them has been dismissed on 21.2.1979 and accordingly the said suit proceedings became final and no order can be passed contrary to the suit proceedings.
10. The Consolidation Officer has framed six issues for determination and the first issue was with regard to the fact as to whether the private respondents are entitled to any right, interest in the disputed land the same being their ancestral property. The Consolidation Officer decided issue No.4 and found that the suit was instituted by the private respondents seeking the relief of co-tenancy which was rejected by means of order dated 4.4.1978 and subsequently even the appeal was dismissed and only on this fact rejected the contention of the private respondents.
11. With regard to issue No.1 he did not independently consider any evidence but merely because the suit proceedings under Section 229 B had been dismissed, decided issue No.1.
12. Assailing the order dated 13.9.1978 passed by the Consolidation Officer an appeal was preferred before Settlement Officer of Consolidation by the private respondents, which was also dismissed

upholding the order of the Consolidation Officer.

13. It has further been submitted that it is before the Deputy Director of Consolidation that the revision preferred by the private respondents has been allowed by means of order dated 8.9.2025, which has been assailed in the present case.
14. It has been submitted that the Deputy Director of Consolation has allowed the revision on merits and has also returned the findings that there is no dispute that the original recorded tenure holder was Anganu and this fact was undisputed. He submits that this finding is perverse and contrary to the records, in as much as, this aspect of the matter was never considered at the stage of Consolidation Officer and once the trial court has not considered the evidence.
15. He submits that this finding is perverse and contrary to the records in as much as this aspect was never considered at the stage of Consolidation Officer. Once the Consolidation Officer has not considered or recorded the aforesaid evidence the revisional authority could not have returned a finding in this regard for the first time. It was further submitted that once the suit proceedings initiated by the respondents have been dismissed then the benefit of the same would accrue to the petitioner and this would operate as an estoppel against the private respondents in the present litigation. It is in aforesaid circumstances that a prayer was made for setting aside of the impugned order dated 8.9.1985 for allowing the writ petition.
16. As per the previous directions of this Court the entire original record has been produced by learned Standing counsel from which it is clear that due opportunity was given to the parties to adduce evidence and they have, in fact, produced the evidence at length before the Consolidation Officer. Though the Consolidation Officer, in turn has not considered any of the evidences.
17. Learned counsel for the respondents, on the other hand, have supported the impugned order. They have submitted that Deputy

Director of Consolidation has rightly returned a finding that the disputed property being ancestral property on which the original tenure holders was Anganu of which the petitioners and the private respondents are descendants and consequently their prayer is for co-tenancy. It was further submitted that it is in this regard that some agreement has also been arrived at between the parties which has also been considered by Deputy Director of Consolidation and accordingly prayed for dismissal of the writ petition and for affirming the order of the Deputy Director of Consolidation dated 8.9.2025.

18. I have heard the rival contentions of the parties and also perused the record.
19. The validity of the order dated 8.9.2025 has been questioned by the petitioner in the present writ petition. The petitioner and the private respondents are claiming co-tenancy while the petitioner has disputed the family tree stating that the original recorded tenure holder was Mangre of which the petitioners are the descendants while, on the other hand, it is the contention of the private respondents that the property belongs to Angenu who had four sons, namely Mataee, Mangre, Garib and Sahai and the private respondents are the successor in interest of the another son, namely Meetai.
20. It is in this regard that suit proceedings under Section 229 B was initiated by the private respondent which was dismissed on the ground of maintainability on 4.4.1978 and even the appeal was dismissed on 21.9.1979. Much arguments have been raised about effect of the aforesaid proceedings which would have on the present proceedings while deciding the application under Section 9A of the Consolidation of Holdings Act, 1953. The judgment and order dated 4.4.1978 was passed by Assistant Collector, Barabanki and the suit was dismissed being barred by provisions of Section 49 of Consolidation of Holdings Act as well as for non-joinder of the parties. The court of Assistant Collector, Barabanki did not decide

the issue on merits and the suit proceedings were dismissed only on the ground of maintainability. When the matter was adjudicated by the Consolidation Officer he had framed four issues which was the effect of the judgment and order dated 4.4.1978 passed in suit proceedings initiated by the private respondents. The suit was decided in favour of the petitioner where a finding was returned that once the suit of the private respondents has been rejected then the matter has to be decided in favour of the petitioner and he has also considered that the order dated 4.4.1978 has become final in as much as the appeal has also been rejected.

21. Considering the rival contentions, this Court is of the considered view that the findings returned by all the three authorities with regard to effect of the order dated 4.4.1978 is illegal, arbitrary and perverse. In a suit proceedings initiated under Section 229 B the preliminary objection raised by the petitioner with regard to maintainability of the suit was upheld. The suit was thrown out at the threshold on the very ground of maintainability and the court did not adjudicate upon the aspect of declaration sought by the private respondents. Once the rights of the parties were not decided in the suit proceedings then the said proceedings cannot be of any consequence or entitling the petitioner to raise the plea of estoppel in deciding the objection under Section 9 A (2) of the Consolidation of Holdings Act. In case, the suit has been decreed or rejected on merits after taking evidence and deciding the rival contentions of the parties then certainly the finding returned in the said proceedings would have had a bearing on the proceedings under Section 9 A (2) of the Consolidation of Holdings Act.
22. In the present case, objections were filed by the petitioner as well as private respondents which ought to have been decided by the Consolidation Officer on the basis of the material and evidence adduced before him. The Consolidation Officer has chosen to decide the matter in favour of the petitioner only on the basis that suit proceedings initiated by private respondents have been dismissed. Accordingly, this Court is of the considered view that the

Consolidation Officer has misdirected himself and wrongly appreciated the aspect of dismissal of the suit under Section 229 B. In the present case, we find that merely by dismissal of the suit on the ground of maintainability, without going into the merits of the case, without returning any finding on any issue cannot benefit the other party in any subsequent litigation nor can he claim that mere dismissal of such suit proceedings would vest any right in the opposite party. Similar was the issue in appeal and accordingly has rejected the appeal affirming the order of Consolidation Officer.

23. The Deputy Director of Consolidation, on the other hand, has decided the entire controversy and has considered various evidence and we find that no such evidence is available on record by which it can be established that Angenu is the original recorded tenure holder of the entire property while finding returned by the Deputy Director of Consolidation is that undisputedly the entire property was recorded in his name initially. Neither any evidence has been considered by him but he has only stated that this aspect of the matter is undisputed.
24. The petitioner vehemently has contested this aspect and submits that the findings are clearly perverse and contrary to record. The arguments raised by the petitioner have been rejected in absence of any evidence on record either before the Consolidation Officer or before Settlement Officer of Consolidation or even before Deputy Director of Consolidation.
25. Considering the said arguments, we find that no such evidence in this regard was led by either of the parties nor this aspect was considered by the Consolidation Officer in his judgment and order dated 13.9.2018. Accordingly we find that the order of Deputy Director of Consolidation is also perverse and arbitrary.
26. From the aforesaid discussions, we find that the Consolidation Officer has misdirected himself by deciding the entire controversy merely on noticing that the suit proceedings initiated by the private

respondents was dismissed and the said order was affirmed by the Appellate Authority. The Appellate Authority has also rejected the appeal affirming the order of Consolidation Officer but the Deputy Director of Consolidation has considered totally fresh facts and evidence which we do not find to be available on record.

27. It is for the aforesaid reasons that we find that the orders of all three authorities are illegal, arbitrary and deserve interference. We accordingly while allowing the writ petition, set aside the order of Deputy Director of Consolidation dated 8.9.2025 and remit the matter back to the Deputy Director of Consolidation who would be at liberty to remand the matter to Settlement Officer of Consolidation, who, in turn would also be at liberty to remand the matter back to the Consolidation Officer for determination afresh after giving opportunity of hearing to all the parties considered.
28. In light of the above, the writ petition is **allowed**.
29. The Deputy Director of Consolidation is directed to pass fresh order in accordance with law within a period of three months considering that the matter is very old and pending since more than forty years. While deciding the matter the authorities shall not be influenced by the findings recorded under Section 229 B of U.P. Revenue Code.
30. On the joint request of the parties, they are directed to appear before the Deputy Director of Consolidation on 3.2.2026.

(Alok Mathur,J.)

January 12, 2026

RKM.