



2026:AHC-LKO:6852

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

MATTERS UNDER ARTICLE 227 No. - 191 of 2026

Ram Bahadur And 6 Others

.....Petitioner(s)

Versus

Hajirunnisha And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vimal Kishore Verma, Harsh Verma
Counsel for Respondent(s)	:	

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Vimal Kishore Verma Advocate, the learned counsel for the petitioner and perused the records.

2. By means of the instant petition filed under Article 227 of the Constitution of India the petitioners have assailed the validity of a judgment and order dated 14.11.2025, passed by the learned Additional District Judge, Court No.5, Lakhimpur Kheri in Civil Revision No.19 of 2024: Hazirulnisha and others Vs. Ram Bahadur and others, whereby the revision filed by the opposite parties against an order dated 31.05.2024, passed by the Civil Judge, Junior Division, Outlying Court, Nighasan Lakhimpur Kheri in Regular Suit No.482 of 2014 has been allowed and the order dated 31.05.2024 passed by the learned Civil Judge deciding preliminary issue no.5 holding that the civil court has no jurisdiction to entertain a suit for cancellation of a sale-deed in respect of an agricultural land, has been set aside.

3. The plaintiffs / opposite parties filed Regular Suit No.482 of 2014 for cancellation of sale deed and perpetual injunction pleading that they are the recorded tenure holders of the land bearing Gata No.916, measuring 0.214 hectare situated in Village Suthna Barsola, Pargana Khairigadh, Tehsil Nighasan, District Kheri. The previous owner of the land in question Late Abdul Bari, who was father in law of the plaintiff no.1 and father of the plaintiff nos.2, 3 and 4, had executed a registered will in favour of the plaintiffs and their names

were mutated in the revenue records by means of an order dated 18.07.2011 passed by the Tehsildar Nighasan. On 20.01.2014 the defendants tried to take possession of the property in dispute claiming that Late Abdul Bari had executed a registered sale deed dated 04.07.1988 in favour of Ram Kishun, father of the defendant nos.1 and 2. The plaintiffs sought cancellation of the sale deed stating that the sale deed is forged, it has not been executed by Late Abdul Bari, it does not make a mention of plot number and it was executed on 04.07.1988 during pendency of consolidation proceedings, no mutation was effected during the consolidation proceedings and, therefore, the defendants cannot get their names mutated now. It was further stated that no consideration was paid for execution of the sale deed.

4. A written statement has been filed inter alia pleading that the names of the defendants have been mutated on the basis of the sale deed in question as co-tenure holder of the land in question by means of an order dated 04.06.2014 passed by Tehsildar Nighasan and the suit is barred by the provisions of Section 331 of U.P. Zamindari Abolition and Land Reforms Act (hereinafter referred to as "the U.P.Z.A. & L.R. Act).

5. The learned trial court framed issues and issue no.5 was whether the suit is barred by Section 331 of U.P.Z.A. & L.R. Act, 1950.

6. The learned trial court held that the plaintiffs are not the recorded tenure holders of the disputed agricultural land. The dispute involves declaration of bhumidhari rights of the plaintiffs. Relief of declaration of the ownership of the agricultural land has not been sought in the plaint specifically but in essence the claim of the plaintiffs was based on his ownership on the basis of will while the plea of the defendants was that the plaintiff is not the owner of the property and the property belongs to the defendants on the strength of a registered sale deed. Adjudication of title of land is the main question involved in the suit. As the main question for adjudication relates to the declaration of the rights or title of the agricultural land, a suit will lie in revenue court and not in a civil court.

7. The plaintiffs challenged the aforesaid order by filing Civil Revision No.19 of 2024, which has been allowed by means of the impugned order dated 14.11.2025.

8. The learned revisional court held that the names of the plaintiffs were mutated in the revenue records under the orders of Tehsildar, Nighasan. The plaintiffs have filed extracts of khatauni for the year 1416 to 1421, wherein their names are recorded on the strength of a registered will. The defendants have also filed extracts of khatauni for the year 1416 to 1421 as per which the names of the defendants have been mutated on the basis of a sale deed. Thus, it is claimed that the plaintiffs name was recorded on the basis of a registered will and the defendants' names have been recorded on the basis of a sale deed. In case the plaintiffs succeed and the sale deed in question is canceled, the plaintiffs would get the land on the basis of the registered will and in case the suit is dismissed, the land in question would continue to be recorded in the revenue records in the name of the defendants. Therefore, the conclusion of the trial court that the suit is barred by Section 331 of U.P.Z.A. & L.R. Act, is liable to be set aside.

9. Assailing the validity of the aforesaid order, the learned counsel for the petitioners has submitted that the names of the opposite parties are not recorded in the revenue records and, therefore, the defendants are necessarily required to seek a declaration of their title from the revenue court and the suit for cancellation of sale deed is barred by the provisions of Section 331 of U.P.Z.A. & L.R. Act.

10. The learned counsel for the petitioners has placed reliance on the judgments of Hon'ble Supreme Court in the cases of **Kamla Prasad and others Vs. Krishna Kant Pathak and others**: (2007) AIR SCW 1403 and **Pyarelal v. Shubhendra Pilonia**: (2019) 3 SCC 692. In both these cases, the Hon'ble Supreme Court followed the decision in the case of **Shri Ram v. Ist ADJ**: (2001) 3 SCC 24, wherein the Hon'ble Supreme Court held that: -

"7. ... where a recorded tenure-holder having a prima facie title and in possession files suit in the civil court for cancellation of sale deed having been obtained on the ground of fraud or impersonation cannot be directed to file a suit for declaration in the Revenue Court, the reason being that in such a case, prima facie, the title of the recorded tenure-holder is not under cloud. He does not require declaration of his title to the land. The position would be different where a person not being a recorded tenure-holder seeks cancellation of sale deed by filing a suit in the civil court on the ground of fraud or impersonation. There necessarily the plaintiff is required to seek a declaration of his title and, therefore, he may be directed to approach the

Revenue Court, as the sale deed being void has to be ignored for giving him relief for declaration and possession."

11. In **Sanwarmal Kejriwal v. Vishwa Coop. Housing Society Ltd.**: (1990) 2 SCC 288, the Hon'ble Supreme Court held that: -

"24. But the jurisdiction of the court in which the action is originated must be determined on the averments in the plaint or claim application and not on the defence taken by the adversary party. For example, if the plaintiff goes to court alleging that the defendant is a trespasser, the ordinary court will have jurisdiction and its jurisdiction will not be taken away merely because the defendant pleads tenancy. If, however, the defendant succeeds in proving that he is a tenant in respect of premises, possession whereof is sought, the court trying the case would dismiss the suit on the ground that the plaintiff had failed to prove the jurisdictional fact that the defendant was a trespasser...."

(Emphasis added)

12. The plaintiffs / opposite parties have pleaded in the plaint that they are the recorded tenure holders and they have prayed for a decree of cancellation of sale deed executed by Late Abdul Bari on 04.07.1988 and registered on 27.01.1989, and they have sought a decree of perpetual injunction restraining the defendants / petitioners from interfering in their possession. The plaintiffs have not sought a decree of declaration of their title. As per the averments made in the plaint, the plaintiff is the recorded tenure holder. The defendants / petitioners have pleaded in their written statement that now the plaintiffs are not recorded tenure holders and the defendants have been recorded as the tenure holders. As per the law laid down by the Hon'ble Supreme Court in **Sanwarmal Kejriwal v. Vishwa Coop. Housing Society Ltd.** (supra), the jurisdiction is to be determined on the basis of the averments made in the plaint and not on the defence taken by the defendants.

13. Moreover, the plaintiffs have not sought a relief of declaration of their title. They have sought a decree of cancellation of sale deed.

14. Sub-sections (1) and (1-A) of Section 331 (1) of the U. P. Zamindari Abolition Act provide as follows: -

*"**331. Cognizance of suits, etc. under this Act.**—(1) Except as provided by or under this Act no court other than a court mentioned in column 4 of Schedule II shall, notwithstanding anything contained in the Civil Procedure*

Code, 1908 (V of 1908), take cognizance of any suit, application, or proceedings mentioned in column 3 thereof, or of a suit, application or proceedings based on a cause of action in respect of which any relief could be obtained by means of any such suit or application:

Provided that where a declaration has been made under Section 143 in respect of any holding or part thereof, the provisions of Schedule II insofar as they relate to suits, applications or proceedings under Chapter VIII shall not apply to such holding or part thereof.

Explanation.—If the cause of action is one in respect of which relief may be granted by the revenue court, it is immaterial that the relief asked for from the civil court may not be identical to that which the revenue court would have granted.

(1-A) Notwithstanding anything in sub-section (i), an objection that a court mentioned in column 4 of Schedule II, or as the case may be, a civil court, which had no jurisdiction with respect to the suit, application or, proceeding, exercised jurisdiction with respect thereto shall not be entertained by any appellate or revisional court unless the objection was taken in the court of first instance at the earliest possible opportunity and in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of justice."

15. Suit for cancellation of sale deed is not mentioned in Schedule II referred to in Section 331 (1) of the U.P.Z.A. & L.R. Act. Therefore, no Revenue Court has been conferred with the jurisdiction to adjudicate upon a suit for cancellation of a sale deed.

16. Section 9 of the Civil Procedure Code provides that: -

"9. Courts to try all civil suits unless barred.—*The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognisance is either expressly or impliedly barred.*

Explanation [I].—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Explanation II.—For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place."

17. Suit for cancellation of sale deeds is not barred by the provisions contained in Section 331 read with Schedule II of the U.P.Z.A. & L.R.

Act and, therefore, cognizance of such a suit by the civil court is neither expressly nor impliedly barred.

18. In **Ram Padarath v. Second Addl. District Judge**: 1988 SCC OnLine All 685 = 1989 RD 21, a Full Bench of this Court held that: -

"41. In the case of void document said to have been executed by a plaintiff during his disability or by some one impersonating him or said to have been executed by his predecessor whom he succeeds, the relief of cancellation of the document is more appropriate relief for clearing the deck of title and burying deep any dispute or controversy on its basis in presenti or which may take place in future. The document after its cancellation would bear such an endorsement in Sub-Registrar's register and would be the basis for correction of any paper and revenue record including record of register. Section 31 of the Specific Relief Act itself prescribes as to who can seek relief of cancellation. A third person cannot file a suit for cancellation of a void document. If in fact no decree for cancellation was needed and real and effective relief could be granted by the revenue court only, the civil court decree would even then be valid and not void if no objection to the same was taken before the trial court. If such an objection was taken before the trial court before framing of issues and objection continued to be taken before appellate and revisional court and there has been failure of justice because of change of forum then the civil court decree could be said to be without jurisdiction.

* * *

46. We are of the view that the case of Indra Deo v. Smt. Ram Piari, 1982 (8) ALR 517 has been correctly decided and the said decision requires no consideration, while the Division Bench case, Dr. Ayodhya Prasad v. Gangotri, 1981 AWC 469 is regarding the jurisdiction of consolidation authorities, but so far as it holds that suit in respect of void document will lie in the revenue court it does not lay down a good law. Suit or action for cancellation of void document will generally lie in the civil court and a party cannot be deprived of his right getting this relief permissible under law except when a declaration of right or status of a tenure-holder is necessarily needed in which event relief for cancellation will be surplusage and redundant. A recorded tenure-holder having prima facie title in his favour can hardly be directed to approach the revenue court in respect of seeking relief for cancellation of a void document which made him to approach the court of law and in such case he can also claim ancillary relief even though the same can be granted by the revenue court."

(Emphasis added)

19. In **Bismillah v. Janeshwar Prasad**: (1990) 1 SCC 207, the Hon'ble Supreme Court held that: -

"7. It is settled law that the exclusion of the jurisdiction of the civil court is not to be readily inferred, but that such exclusion must either be explicitly expressed or clearly implied. The provisions of a law which seek to oust the jurisdiction of civil court need to be strictly construed. Section 331 of the Act has been the subject of series of pronouncements of the High Court as to the circumstances and the nature of the suits in which its exclusionary effect operates. Distinction was sought to be drawn between the class of cases where the binding effect of a deed had had to be got rid of by an appropriate adjudication on the one hand and the class of cases in which a transaction could be said to be void in law where what the law holds to be void, there is nothing to cancel or set aside on the other. In the former case, it was held, a suit was cognisable by the civil court while in the latter, it was not, it being open to the statutory authority to take note of the legal incidents of what was non est.

* * *

*9. It is true that **the question of jurisdiction depends upon the allegations in the plaint and not the merits or the result of the suit.** However, in order to determine the precise nature of the action, the pleadings should be taken as a whole. If as, indeed, is done by the High Court the expression 'void' occurring in the plaint as descriptive of the legal status of the sales is made the constant and determinate and what is implicit in the need for cancellation as the variable and as inappropriate to a plea of nullity, equally, converse could be the position. The real point is not the stray or loose expressions which abound in inartistically drafted plaints, but the real substance of the case gathered by construing pleadings as a whole. It is said "Parties do not have the farsight of prophets and their lawyers the draftsmanship of a Chalmers".*

10. Indeed in **Gorakh Nath Dube v. Hari Narain Singh** [(1973) 2 SCC 535] this Court, dealing with the provisions of the U.P. Consolidation of the Holdings Act, 1954 where the provision excluding the civil court's jurisdiction is even wider, has had occasion to observe: (SCR p.342 : SCC p.538, para 5)

'....but, where there is a document the legal effect of which can only be taken away by setting it aside or its cancellation, it could be urged that the consolidation authorities have no power to cancel the deed, and, therefore, it must be held to be binding on them so

long as it is not cancelled by a court having the power to cancel it...."

(Emphasis added)

20. In **Narendra Kumar Mittal v. Nupur Housing Development (P) Ltd.**: (2020) 20 SCC 158, the Hon'ble Supreme Court quoted with approval of the law laid down in **Ram Padarath** (Supra) and further held that: -

"6. In the instant case, the plaintiff has pleaded that it had purchased the disputed property under five sale deeds all dated 17-10-1998 from the first defendant. The suit was filed for cancellation of the sale deed dated 15-6-2006 on the ground of fraud and misrepresentation. The plaintiff had not sought any relief with respect to its own right and title as a tenure-holder or declaration of its title or status. As stated above, the only relief sought in the suit filed was for cancellation of the alleged sale deed dated 15-6-2006. We are of the view that Section 331 of the Act does not deprive a party of his right to approach the competent court of law for getting a document cancelled, especially when, prima facie, the title of the recorded tenure-holder is not under cloud. The Revenue Court does not have jurisdiction of granting relief of cancellation of a deed on the ground of fraud and misrepresentation.

*** * ***

9. In the instant case, since the plaintiff claims title under sale deeds of 1998 executed by the first defendant, it need not be forced to seek a declaration of its title. Therefore, the plaintiff had filed a suit for cancellation of the subsequent sale deed executed by the first defendant in favour of the second defendant. Hence, there is no bar under Section 331 of the Act for the plaintiff to approach the civil court and the suit filed by it was maintainable."

21. In **Pancham v. Ram Gen**: 2009 SCC OnLine All 1830 = (2009) 108 RD 737, a coordinate bench of this Court held that: -

"19. ...The suit question was plain and simple suit for cancellation of sale deed in term of Section 31 of Specific Relief Act, 1963 and on the strength of said sale deed, the right of plaintiff was to be adversely effected. Revenue Court is not at all Competent to give relief of cancellation of sale deed. Jurisdiction of Civil Court is ousted if the relief can be granted by the special court, conferred with the jurisdiction to grant relief. Section 331 of U.P.Z.A. & L.R. Act ousts jurisdiction of the other courts, and therein emphasis is on words "cause of action" and any relief which can be accorded by Revenue Court. A suit for cancellation of sale deed is not such a suit application or proceeding as

mentioned in column 3 of the Schedule II nor is it a suit application or proceeding based on a cause of action in respect of which relief can be obtained by means of any such suit or application from a Revenue Court mentioned in Column 4 of Schedule II of the Act...."

22. In the present case, the plaintiffs-opposite parties have filed the suit for cancellation of sale deed and perpetual injunction pleading that they are the recorded tenure holders of the land in dispute. The land was previously owned by Late Abdul Bari, who was the father of the plaintiff nos.2, 3 and 4 and father-in-law of the plaintiff no.1. He had executed a registered will in favour of the plaintiffs and their names were mutated in the revenue records by means of an order dated 18.07.2011 passed by the Tehsildar Nighasan. The plaintiffs alleged that the defendants tried to take possession of the property in dispute on 20.01.2014 claiming that Late Abdul Bari had executed a registered sale deed dated 04.07.1988 in favour of Ram Kishun, father of the defendant nos.1 and 2. The plaintiffs sought cancellation of the sale deed stating that the sale deed is forged, it has not been executed by Late Abdul Bari, it does not make a mention of plot number and it was executed on 04.07.1988 during pendency of consolidation proceedings, no mutation was effected during the consolidation proceedings and, therefore, the defendants cannot get their names mutated now. It was further stated that no consideration was paid for execution of the sale deed. The defendants have pleaded in the written statement that the names of the defendants have been mutated on the basis of the sale deed in question as co-tenure holder of the land in question by means of an order dated 04.06.2014 passed by Tehsildar Nighasan. It is evident that initially the land in question was owned by the plaintiffs' predecessor in interest and after his death, the plaintiffs' names had been recorded in the revenue records. The plaintiffs' claim is solely for cancellation of the sale deed allegedly executed by their predecessor-in-interest in favour of the defendants and for a consequential injunction. In case the sale deed is canceled, the plaintiffs would not need a separate relief of declaration as the obvious consequence of cancellation of the sale deed would be restoration of the plaintiffs' names recorded in the revenue records. The revenue Courts have no jurisdiction to entertain a suit for cancellation of a sale deed. Therefore, there is no bar against the jurisdiction of the Civil Court for entertaining the suit for cancellation of sale deed filed by the plaintiffs / opposite parties.

23. In view of the foregoing discussion, there appears to be no illegality or infirmity in the impugned order dated 14.11.2025, passed by the learned Additional District Judge, Court No.5, Lakhimpur Kheri in Civil Revision No.19 of 2024: Hazirulnisha and others Vs. Ram Bahadur and others. The petition lacks merit and the same is accordingly **dismissed**.

January 30, 2026
Ram.

(Subhash Vidyarthi,J.)