



2025:AHC:186308

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 2774 of 2025

Ravendra Singh

.....Petitioner(s)

Versus

State Of U.P. And 4
Others

.....Respondent(s)

Counsel for Petitioner(s) : Pushpendra Kumar, Ramdhan
Counsel for Respondent(s) : C.S.C., Krishna Kant Singh

A.F.R.

Court No. - 18

HON'BLE SIDDHARTH NANDAN, J.

1. Heard learned counsel for the parties.

2. Petitioner has filed the instant writ petition questioning the order dated 09.05.2025 relying on the judgment and order of Apex Court in **Shivraji & others vs. Deputy Director of Consolidation, Allahabad and others, 1997 (88) RD 562**, wherein the ratio laid down is that, it is not open for the authorities to review/recall their final orders, passed in proceedings under U.P. Consolidation of Holdings Act, in exercise of their inherent powers.

3. I have perused the order dated 09.05.2025, wherein, the stand of the Gram Pradhan was that, by changing the valuation of the plots in question, they have suffered a loss of 0.520 hectares and the proceedings initiated by the erstwhile Pradhan-Sri Chaturbhuj Singh son of Sri Ram Prasad Singh, which was subsequently, withdrawn by him on

30.03.2010, could not have been done as on the said date one Smt. Neelam Kumari was the elected Pradhan. In the aforesaid conspectus of the facts, the recall application has been allowed by the impugned order.

4. This Court having realized that the land in question, may involve the interest of the State Government, as it is being contested that the same was a cremation ground and accordingly, no valuation can be fixed with respect to a ground which has been recorded as public utility land under Section 77(1)(H) of the Revenue Code, had passed an order by way of which the Principal Secretary, Department of Revenue, Government of Uttar Pradesh, Lucknow and Principal Secretary, Panchayat Raj Department, Government of Uttar Pradesh, Lucknow, were directed to give point wise reply to the questions framed in the order dated 13.08.2025. The direction was as follows:-

"The Principal Secretary, Department of Revenue, Government of Uttar Pradesh, Lucknow is directed to file a personal affidavit on all relevant aspects of the controversy including the following issues:

- A. Joinder of State as a co-respondent in matters relating to the Gaon Sabha lands and properties in consolidation proceedings.*
- B. The competent officials who will approve and swear the pleadings on behalf of the State.*
- C. The competent officials who will adduce the evidence on behalf of the State.*

Similarly, the Principal Secretary, Department of Revenue, Government of Uttar Pradesh, Lucknow & Principal Secretary, Panchayati Raj Department, Government of Uttar Pradesh, Lucknow shall file a composite affidavit regarding the stand of the State on the following issues:

- A. Joinder of State as a co-respondent in matters relating to the Gaon Sabha lands and properties in consolidation proceedings.*
- B. The competent officials who will approve and swear the pleadings on behalf of the Gaon Sabha.*
- C. The competent officials who will adduce the evidence on behalf of the Gaon Sabha.*

Put this matter on 22.09.2025 in the list of fresh cases along with Writ-B No.2718 of 2025 (Chauhan Kalicharan v. State of U.P. and 3 others)."

5. In compliance of the said order dated 13.08.2025, Principal Secretary Department of Revenue, Government of Uttar Pradesh has filed his personal affidavit and in brief has submitted as follows:-

(i) Section 4(1) of U.P.Z.A. & L.R. Act, 1950, provides all the rights of estate and intermediaries abolished from 01.07.1952 and got vested in the State Government;

(ii) Section 3(2A) of U.P. Consolidation of Holdings Act, 1953, the expression "consolidation area" means the area in respect of which a notification under Section 4 has been issued, except such portions thereof to which the provisions of U.P.Z.A. & L.R. Act, 1950, or any other law by which the Zamindari system has been abolished, do not apply;

(iii) Section 11C of the U.P. Consolidation of Holdings Act, 1953, provides that the consolidation authorities may direct any land vesting in the State Government, Gaon Sabha or any other local body/authority and their name being recorded, even in absence of any objection, appeal or revision filed by such government;

(iv) Section 213 of U.P. Revenue Code, 2006, provides that subject to the provision of the said Code or the rules made thereunder, the State Government shall be made a party to any suit instituted by or against the Gram Panchayat or local authority under the Code. Section 213 of Code, 2006 is as follows:-

"Subject to the provisions of this Code or the rules made there under, the State Government shall be made a party to any suit instituted by or against the Gram Panchayat or local authority under this Code."

6. From the conjoint reading of the aforesaid provisions, learned Standing Counsel has contended that the joinder of the State as a co-respondent in consolidation matters concerning Gaon Sabha lands and properties is essential, in order to protect the interest of the State. He has further contended that Section 213 of the Code, 2006 in so many words states that the State Government shall be made a party to any suit which is instituted by or against the Gram Panchayat or local authority under the Code.

7. In respect of the second set of questions pertaining to the procedure for the conduct of the Gram Panchayat litigations, the respondents rely upon Appendix-II to the Rule 74(f) of U.P. Revenue Code Rules, 2016 and submitted that the provisions of para-13(2) of the Appendix-II to the Rule 74(f) of the Rules, 2016, further enumerates the necessity of a written statement duly signed by the Collector. For the ready reference paragraph 18(1) and (2) of Appendix-II to the Rule 74(f) of Rules, 2016; along with provisions of paragraph 13(2) of Appendix-II to the Rule 74(f) of Rules, 2016 is quoted below:

"Para 18. (1) The State Government shall be a necessary party in the following classes of suits instituted against the Gram Panchayat:

(a) Suits under sections 59 to 61 and 183 of the U.P. Tenancy Act 1939, in which the cause of action accrued before the date of vesting.

(b) Suits for the declaration of the rights and/or of recovery of possession by a bhumidhar.

(c) Suit by persons claiming the land or any of the things vested in a Gram Panchayat or a local authority under the Revenue Code, 2006 or the enactment repealed by the Revenue Code.

(d) Suits, the decision in which is likely to affect adversely or otherwise, the land revenue payable to the State Government.

In all such cases the Collector and/or the Government would also be receiving copies of the plaint and summons and the line of defence which is to be adopted in such cases by the Land Management Committee will be governed with reference to instructions received from the Collector.

(2) The Collector shall appoint one of his experienced subordinate officers as Special Officer on whom shall rest the responsibility for doing proper pairvi of cases in which the State Government is also a party.

13.(2) In cases where the Government is a party, a separate written statement would also be filed duly signed by the Collector in all cases, whether (Q pending in a court at District headquarters or at Tahsil headquarters."

and accordingly, in the light of the aforesaid legal provisions the three issues raised in the order dated 11.08.2025 were answered as follows:

"A- That it is respectfully submitted that the Section 213 of U.P. Revenue Code, 2006 read with para 18(1) of the Appendix II to Rule 74(f) of U.P. Revenue Code Rules, 2016 clearly provides, that State Government shall be a necessary party (co-respondent) in all the matters pertaining to Gram Sabha. Since the UP Consolidation of Holding Act, 1953 extends to all such lands where erstwhile UPZA and LR Act now U.P. Revenue Code, 2006 is applicable, therefore the provisions of U.P. Revenue Code, 2006 also apply to the Gram Panchayat lands and properties in Consolidation proceedings.

B- That it is further submitted that the para 18(2) of the Appendix II to the U.P. Revenue Code Rules, 2016 provides that the Collector shall appoint one of his experienced subordinate officers as Special Officer on whom shall rest the responsibility for doing proper pairvi of cases in which the State Government is also a party. Whereas para 13(2) of the Appendix II provides that in cases where the Government is a party, a separate written statement would also be filed duly signed by the Collector in all cases, whether pending in a court at District headquarters or at Tahsil headquarters.

In this manner Special Officer so appointed/Officer nominated by the Collector shall do pairvi and written statements duly signed by the Collector shall be filed on the behalf of the State Government.

C- That it is further submitted that in accordance with the provisions of para 18(2) of the Appendix II to the U.P. Revenue Code Rules, 2016,

Special Officer appointed by the Collector shall adduce evidence on behalf of the State."

8. Likewise the composite affidavit of Principal Secretary Department of Revenue, Government of Uttar Pradesh and Principal Secretary Panchayat Raj, Government of Uttar Pradesh has also been filed.

9. On the other side counsel for the petitioner has vehemently urged and has placed reliance on a judgment dated 23.08.2024 passed by this Court in Writ-B No.11144 of 2015 (Ravendra Singh vs. D.D.C. and others). He has contended that on the earlier occasion the order dated 30.03.2010 was reviewed by order dated 11.02.2015 passed by the Deputy Director of Consolidation and on a challenge being raised by way of Writ-B No.11144 of 2015, this Court relying upon the judgment of Shivraji and others (supra) had opined that the consolidation authorities have got no jurisdiction to review his order in as much as there is no provision under the U.P. Consolidation Holdings Act or Land Revenue Act conferring the review jurisdiction upon the consolidation courts; and accordingly the order dated 11.02.2015 was set aside and the order dated 30.03.2010 was affirmed. For ready reference, order dated 23.08.2024 passed by this Court, is reproduced below:

“Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

Petitioner is aggrieved with the order dated 11.02.2015 passed by Deputy Director of Consolidation whereby he has reviewed his earlier order dated 30.03.2010. Point involved in the instant writ petition lies in a narrow compass as to whether consolidation courts have got jurisdiction to review their previous order. Facts culled out from the record, for the specific purpose to the point as raised by learned counsel for the petitioner, are that against the order dated 26.08.1999 passed of Settlement Officer Consolidation, Pradhan of village has preferred a revision at belated stage on 09.09.2003. Deputy Director of Consolidation Officer, vide order dated 30.03.2010 (annexure no. 3), has

dismissed the revision on merits after hearing both the parties. Having been aggrieved with the order dated 30.03.2010, Village Pradhan has moved a restoration / review application dated 05.04.2010. Deputy Director of Consolidation, vide order impugned dated 11.02.2015, has reviewed his earlier order dated 30.03.2010, consequently, he has allowed the revision filed on behalf of Gram Pradhan and quashed the order dated 26.08.1999 passed by Settlement Officer Consolidation. It is no more res integra, as the ratio decided by Hon'ble full Bench of this Court in the case of Shivraji & Ors. Vs. Deputy Director of Consolidation, Allahabad and Others reported in 1997 (88) RD 562, the consolidation authorities have got no jurisdiction to review his order in as much as there is no provision under the U.P. Consolidation Holding Act or under the Land Revenue Act conferring the review jurisdiction upon the consolidation courts.

In this conspectus as above, instant writ petition succeeds and is allowed. Order impugned 11.02.2015 passed by Deputy Director of Consolidation is quashed and previous order dated 30.03.2010 passed by Deputy Director of Consolidation in Revision No. 56 of 2010 is hereby affirmed."

10. Learned counsel for the respondents could not dispute the fact that vide impugned order dated 09.05.2025, in spite of the fact that this Hon'ble Court had affirmed the order dated 30.03.2010, vide judgment and order dated 23.08.2024 passed in Writ-B No.11144 of 2015, but for the reasons best known to the D.D.C., Hathras, he has again set aside the said order dated 30.03.2010, which has already attained finality up to the stage of the Hon'ble High Court. However, learned Standing Counsel has tried to defend the said order by stating that against the order dated 26.08.1999 passed by S.O.C., Pradhan of village had preferred a revision, and the D.D.C. vide its order dated 30.03.2010 had dismissed the revision and thereby the order dated 26.08.1999 was affirmed; but however, he has placed reliance on an inquiry report dated 09.12.2024

(which is being taken on record) to state that the order dated 26.08.1999 was non existing.

11. Per contra, learned counsel for the petitioner has contended that the said inquiry report dated 09.12.2024 is an ex-parte report and the same has not seen the light of the day nor copy of the same has been provided; and accordingly no reliance can be placed on the same, while this Court has already given finality to the order dated 30.03.2010, which in turn has upheld the order dated 26.08.1999, and the said issue cannot be re-opened now.

12. Learned Standing Counsel has not brought the said inquiry report otherwise also on record, by way of an affidavit to substantiate its argument or plead an alternative case.

13. However, at this stage this Court can only proceed to examine the validity of the impugned order and the intrinsic question of non-joinder of necessary party and as to whether there was an element of collusion between the Gram Sabha and the second party or if at all there was a fraud played upon, to vitiate the entire proceedings.

14. From the pleadings in the writ petition, the dispute is with regard to the land bearing Chak No.34, Gata No.52/2, area 0.053 hectares situated at village Amokhari, Tehsil Sasni, District Hathras, which was allotted during the course of consolidation proceedings in favour of the petitioner vide order dated 15.01.1996 on a valuation of 10 paise, where after it has been alleged that the name of the petitioner was also mutated in the revenue records and since the petitioner was in occupation, he continues to be in possession on the aforesaid land till date. He had relied upon Form-23. Against the order dated 15.01.1996, an appeal was preferred which was registered as Case No. 1114/98-99 (Babu Lal vs. Ravindra Kumar and another) under Section 21(2) of U.P.C.H. Act and after hearing the parties order dated 26.02.1999/26.08.1999 was passed and it is the said order which was confirmed by dismissal of the revision

no.56/2009-10 under Section 48 of U.P.C.H. Act before the Deputy Director of Consolidation, Bulandshahr Camp Hathras, vide order dated 30.03.2010.

15. The counter affidavit on behalf of respondent nos.2 and 3 i.e. the State authorities has been filed, wherein, there is no denial of the fact that the order dated 30.03.2010 was confirmed by this Court in Writ-B No.11144 of 2015 or the fact that the consolidation authorities does not have the power to recall/review its orders.

16. It may also be taken note of that initially one Chaturbhuj Singh had filed a revision before the Deputy Director of Consolidation but the same was withdrawn and subsequently the newly elected Pradhan-Smt. Neelam Kumari had filed restoration application no.2/25 in revision filed by the erstwhile Pradhan-Sri Chaturbhuj Singh, which was allowed vide order dated 09.05.2025 and where after the impugned order dated 09.05.2025 has been passed setting aside the order dated 30.03.2010 and consequentially the order dated 26.02.1999 passed by the Settlement Officer of Consolidation, has also been set aside.

17. The application dated 10.01.2025 filed by Smt. Neelam Kumari is also on record and I have perused the same and find that specific averments have been made that though the earlier Pradhan's tenure was from 1995-2000 and thereafter one Nirmala Devi was elected as Pradhan for the period 2000-05, and further one Rakesh Kumar was elected as Pradhan on 02.08.2008 and continued till the year 2010; accordingly, the erstwhile Pradhan Sri Chaturbhuj Singh did not have any authority to withdraw the revision on 06.10.2009.

18. It has been noted by this Court that there has been various instances where an elected Pradhan initiates proceedings raising a cloud over the title of a property and after substantial litigation with the change of Pradhan or just prior to the end of the tenure of the said Pradhan who had raised objections, the proceedings are withdrawn at his behest,

giving at times unwarranted benefits to an individual and loss to the Government. It is also to be noted here that Gram Sabha is only the custodian of the land and not the owner and as such it is high time to determine whether the State is a necessary party in proceedings specially when the context is possibly with respect to a land which is a public utility land or a State land. The present case is also a case, where the context is possibly with respect to a land, which was used as a cremation ground and as such this Court finds it appropriate that the question, as to whether State is a necessary party, is to be considered.

19. Learned counsel for the petitioner could not dispute the fact that it is the property of the State, which is vested in the Gaon Sabha for the purposes of Management, and it is the Gaon Sabha which acts in accordance with the directions of the State Government. It is no longer *res integra* that Gaon Sabha itself cannot claim right over the property but it is the State who can do so.

20. My view is fortified by the ratio laid down in the case of Gaon Sabha Raison vs. Additional Collector and others, 1979 RD 124. After the date of vesting of all estates situated in Uttar Pradesh is vested in the State by virtue of Section 4 notification in the gazette; and as declared under Section 59 of the Revenue Code, 2006 that certain kind of land which was vested in the State shall vest in the Gaon Sabha and other local bodies as the ease may be, consequentially it follows that a land which is vested in the Gaon Sabha by the State Government, the right of the Gaon Sabha and the State Government are inseparable and therefore, I do not see any harm if the State Government can be said to be a necessary party.

21. As a matter of fact, the State Government can intervene to protect the rights of the Gaon Sabha; if the Gaon Sabha fails to take action or performs its duties as is also clear from Section 71 and 72 of the Code, 2006. Moreover, I find that the sole reliance and expectation from an elected Pradhan, in given circumstances may not do justification and it

may become imperative that the State Government may also be impleaded as a necessary party.

22. In view of the various provision quoted herein above, this Court finds that once the area is notified under Section 4 of the U.P.C.H. Act then by virtue of Section 11(c), the consolidation authorities acquires the right to direct that any land vested in the State Government, Gaon Sabha or any other local body authority duly recorded in its name and in the said circumstances any land which has been categorized as a public utility land under Section 77(1)(H) of the U.P. Revenue Code, 2006, the State becomes a necessary party in matter concerning the lands of the Gaon Sabha.

23. I have noticed that in the present case also there is a dispute regarding the land being a public utility land or not and the same is being contested between petitioners and respondents; but in either case the State is a necessary party, this aspect of the matter was not considered by the D.D.C. Hathras while deciding the application of the Land Management Committee dated 16.04.2025. He has also not considered that once the order dated 30.03.2010 has attained finality in view of the order dated 23.08.2024 passed in Writ-B No.11144 of 2015, then in the said circumstances, can any application for recall/review be said to be maintainable. The ratio of Shivraji (supra) has also not been considered.

24. The Court is conscious of the fact that a plea has been raised by the Gram Sabha/Gram Pradhan stating that no valuation can be made over with respect to a public utility land which in the present case is allegedly the cremation ground and by changing the valuation, the Gram Sabha has suffered a loss of land measuring 0.520 hectares; but the equity demands that once the order dated 30.03.2010 has attained finality, the said fact along with the consideration pertaining to the plea, as to whether, the D.D.C. has powers to review its own order, ought to have been considered along with the plea of the State, as to whether a fraud has been played upon, by not contesting the proceedings. It is also

noteworthy that Gaon Sabha only being represented by Pradhan, who keeps on changing and so does the stand, and as such the true owner who is the State, becomes a necessary party

25. In view of the observations made herein above, the impugned order dated 09.05.2025 is hereby set aside and the matter is remanded back to the Deputy Director of Consolidation, Hathras with the following directions:-

(i) to take an expeditious decision, preferably within a period of two months from the date of production of certified copy of this order regarding the application dated 25.10.2021 filed by the Gram Pradhan in Revision No.76/341 under Section 48(1) of U.P. C.H. Act, against the order dated 30.03.2010;

(ii) the revisional court shall also adjudicate on the question of its own jurisdiction, as to whether, a review/recall application can be entertained, in view of the judgment of the Apex Court in Shivraji (supra) and also the judgment and order dated 23.03.2024 passed in Writ-B No.11144 of 2015 (Ravendra Singh vs. D.D.C. and others), while considering the plea of the State, pertaining to any fraud being involved;

(iii) State may be directed to be impleaded as a necessary party before proceeding in the matter;

(iv) Registrar (Compliance) is directed to send a copy of this order to the Principal Secretary, Department of Revenue, Government of Uttar Pradesh, Lucknow and Principal Secretary, Panchayat Raj Department, Government of Uttar Pradesh, Lucknow, for necessary compliance.

25. With the aforesaid observations/directions, the writ petition stands allowed, however, no cost.

(Siddharth Nandan,J.)

October 16, 2025

S.Prakash