

Court No. - 18

Case :- WRIT - B No. - 883 of 2023

Petitioner :- Mangal Prasad And Another

Respondent :- Deputy Director Of Consolidation, Bahraich And Others

Counsel for Petitioner :- Ajeet Kumar Mishra

Counsel for Respondent :- C.S.C.

Connected with

Case :- WRIT - B No. - 24034 of 2019

Petitioner :- Babu Ram

Respondent :- Deputy Director Consolidation Bahraich And Ors.

Counsel for Petitioner :- Ajey Singh

Counsel for Respondent :- C.S.C., Utkarsh Kumar

Hon'ble Saurabh Lavania, J.

Vakalatnama filed by Sri Ajey Singh, who has put in appearance on behalf of opposite party no.4, 5 & 6, is taken on record.

In petition, i.e., Writ-B No.883 of 2023, a challenge has been made to the order dated 18.08.2023 passed by opposite party no.1/ Deputy Director of Consolidation, District Bahraich, in Revision preferred u/s 48(1) of U.P. Consolidation of Holdings Act, 1953 which was registered as Case No.0014/2019 Computerized Case No.2019530815000014 (Mangal Prasad vs. Babu Ram).

It reflects from the impugned order dated 18.08.2023 that the Deputy Director of Consolidation, District Bahraich declined to proceed in the matter on account of pendency of connected Writ B No.24034 of 2019 (Babu Ram vs. Deputy Director of Consolidation, Bahraich and others).

Considering the aforesaid, the Writ-B No.24034 of 2019 was ordered to be listed along with Writ B No.883 of 2023.

In Writ-B No.24034 of 2019 (Babu Ram vs. Deputy Director of Consolidation, Bahraich and others), the order dated 16.07.2019 passed in Revision instituted u/s 48(1) of U.P. Consolidation of Holdings Act, 1953, registered as Revision

No.650/2019530815000014 (Mangal Prasad and Others vs. Babu Ram and Others), has been challenged.

Vide order dated 16.07.2019, impugned in Writ-B No.24034 of 2019, the opposite party no.1/ Deputy Director of Consolidation, District Bahraich admitted the revision.

The order dated 16.07.2019 passed in Revision No.650/2019530815000014 (Mangal Prasad and Others vs. Babu Ram and Others) has been challenged on the main ground to the effect that challenging the order dated 15.06.2019 passed by opposite party no.2/ Settlement Officer Consolidation, District Gonda and the Revision would not be maintainable before the Deputy Director Consolidation, District Bahraich.

Taking note of the aforesaid aspect of the case, this Court entertained the petition.

The aforesaid aspect of the case is settled by the full Bench of this Court vide judgment and order dated 02.04.2019 passed in Writ B No.6303 of 2015 (Shabbar Husain vs Deputy Director of Consolidation, Muzaffarnagar and Another) connected with Writ B No.4477 of 2018 (Gulsher and two others vs. State of U.P. and 18 others), the relevant part of which is quoted hereinbelow:

"The conspection of the legal position that emerges from the aforesaid decisions are these:

(1) The State Government has power to appoint authorities and officers for the respective areas, as may be necessary, to give effect to the provisions of the Act. In district the District Deputy Director of Consolidation is vested with the powers to demarcate the circles in his district and assign the duties and functions to the concerned officers in terms of the provision of the Act, the Rules and the directions issued from time to time by the Director of Consolidation.

(2) The State Government may delegate its power to any officer or authority. It may also confer powers of other authorities and officers on any officer or authority.

(3) The power under Section 48 of the Act is akin to judicial power, hence, in view of Explanation (1) of Section 48 of the Act, the Settlement Officers, Consolidation Officers, Assistant Consolidation Officers, Consolidators and Consolidation Lekhpals are subordinates to the Director of Consolidation. Since power of the Director of Consolidation has been delegated to the Deputy Director of Consolidation to exercise his powers under Section 48 of the Act, they become subordinate officer to the Deputy Director of Consolidation.

(4) In view of the above, an application (revision) would lie before a Deputy Director of Consolidation against an order passed by his subordinate authorities.

*After careful consideration of the submissions of the learned counsel for the parties and the judgments mentioned by the learned Single Judge in the referring order, we find that there is no contradiction in the judgments discussed above where the same law has been laid down. We are in respectful agreement with the law laid down in **Darbari Lal (supra)**, which has been followed in the subsequent judgments.*

Accordingly, we answer the reference in the following terms:

If an appeal or objection is transferred outside of the district, an application (revision) under section 48 of the Act would lie before the Deputy Director of Consolidation of the same District, where the matter was transferred and not in the District where holding or unit situates.

The reference is answered accordingly.

Let the matter be placed before the appropriate Bench."

Considering the aforesaid, including the above quoted portion of the judgement and order dated 02.04.2019 of the full bench of this Court, I am of the view that in the instant case, the revision challenging the order dated 16.07.2019 passed by Settlement Officer, Gonda, would lie before the Deputy Director of Consolidation, District-Gonda.

For the aforesaid reasons, this Court is of the opinion that in the instant matter interference is required. Accordingly, the Writ-B No.24034 of 2019 (Babu Ram vs. Deputy Director of Consolidation, Bahraich and others) is **allowed** and order dated 16.07.2019 is hereby **set aside**. Consequently, the revision in issue is also **dismissed**.

However, liberty is given to the petitioner to file the revision before the competent authority, i.e., Deputy Director of Consolidation, District-Gonda.

In case, such a revision is filed within a period of eight weeks from today, the same shall be decided by the Deputy Director of Consolidation, District-Gonda, on merits.

The Writ B No.883 of 2023 (Mangal Prasad And Another vs. Deputy Director Of Consolidation, Bahraich And Others) stands **disposed of** in above terms.

Order Date :- 27.10.2023

Manoj K.