

**Court No. - 18**

**Case :-** WRIT - B No. - 903 of 2023

**Petitioner :-** Udai Pratap Singh

**Respondent :-** Deputy Director Of Consolidation, Sultanpur  
And 4 Others

**Counsel for Petitioner :-** Uma Kant Mishra

**Counsel for Respondent :-** C.S.C.

**Hon'ble Saurabh Lavania, J.**

Heard Sri Uma Kant Mishra, learned counsel for the petitioner and Sri Hemant Kumar Pandey, learned Standing Counsel for the State.

By way of this petition, a challenge has been made to the order dated 11.07.2022 passed by opposite party no.1/ Deputy Director of Consolidation, Sultanpur vide reference no.51/63/201853004680000552 u/s 48(3) of U.P. Consolidation Act, 1953 ( hereinafter referred to as the Act of 1953).

The petition has also sought the relief to the effect that the opposite parties be directed to maintain status quo regarding the property in issue i.e. Gata No.529 (New Gata No.237) situated at village Shivgarh, Pargana Chanda, Tehsil Lambhuwa, District Sultanpur.

Vide order dated 11.07.2022, the opposite party no.1 rejected the reference on the basis of Section 42 and Section 52 of the Act of 1953 according to which after publication of notification under Section 52 of the Act of 1953, no proceeding can be carried out by the consolidation authorities.

In regard to the aforesaid, reference can be made to the judgment dated 16.02.2018 passed in Civil Miscellaneous Writ Petition No.37413 of 2001 (Brij Bhushan and Others vs. Brij

Mohan and Others); judgment dated 04.08.2017 in Consolidation No.763 of 2005 (Sripal and Others vs. D.D.C., Raebareli) and judgment dated 21.02.2023 in Writ-B No.283 of 2023 (Vijay Pal and Others vs. State of U.P. and Others).

Considering the aforesaid, including the law on the issue related to exercising the power by the consolidation authorities under the Act of 1953 after publication of notification u/s 52 according to which the authorities under the Act of 1953 cannot exercise the power vested in it after the notification of Section 52 of the Act of 1953, this Court is not inclined to entertain the present petition.

Accordingly, it is finally disposed of with liberty to the petitioner to prefer an application for correction of revenue record before appropriate authority under Section(s) 32/38 of U.P. Revenue Code, 2006.

In case such an application for correction is preferred within six weeks from today, the authority concerned shall decide the same expeditiously, say, within a period of three months, after giving proper opportunity to the concerned parties.

At this stage, learned counsel for the petitioner says that the property in issue be protected till disposal of the application for correction, this Court finds that till date the application has not been moved and it is trite law that the authority who can pass the final order can also pass interim order. Reference can be made to the judgment passed by the Division Bench of this Court in the case of **Vinod Kumar Bhalotia vs. State of U.P. reported in 2000 (18) LCD 532**. Relevant paragraphs of the same read as under:-

*"17. In the end we would also like to point out that if the State Government entertains a revision against an order granting permission under sub-section (3) of Section 15 of the Act at the*

*instance of a third party who is a person aggrieved it will also have power to pass interim order like stay of the operation of the order of the Vice-Chairman or staying further construction or development. In Income Tax Officer v. Mohd. Kunhi [ AIR 1969 SC 430.] , the Supreme Court while considering the powers conferred on Income Tax Appellate Tribunal by Sections 254 and 255 of Income Tax Act observed as under:*

*"It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective. When Section 254 confers appellate jurisdiction it impliedly grants the power of doing all such acts or employing such means as are essentially necessary to its execution and that the statutory power carries with it the duty in proper cases to make such orders for staying proceedings as will prevent the appeal, if successful, from being rendered nugatory."*

*18. The law is well settled that every Tribunal has ancillary power to grant interim orders in order to carry out effectively the statutory duty cast upon it. If a proper case is made out, it will be open to the State Government to stay the order granting permission or to stop construction or development work otherwise it may lead to complication in the event the order granting permission is set aside or revoked."*

As such, at this stage, this Court is not inclined to protect the interest of the petitioner and liberty is given to the petitioner to prefer an application for interim protection which shall be considered by the authorities concerned in view of the judgment preferred above as also after taking note of Para 489 of U.P. Revenue Code Manual expeditiously.

**Order Date :- 28.10.2023**  
Manoj K.