

Court No. - 50

Case :- WRIT - B No. - 1058 of 2025

Petitioner :- Siddhanath

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Ashok Kumar Dwivedi, Deepankar Dwivedi

Counsel for Respondent :- C.S.C., Pradeep Singh, Vineet Kumar Singh

Hon'ble Chandra Kumar Rai, J.

1. Heard learned counsel for the petitioner, Mr. Vineet Kumar Singh and Mr. Abhishek Dwivedi, learned counsel for respondent Nos.4 and 5, Mr. Pradeep Singh, learned counsel for respondent No.8/ Land Management Committee and Mr. Anjani Kumar Chaurasiya, learned Additional Chief Standing Counsel for the State-respondents.

2. Brief facts of the case are that in the allotment of chak proceeding two chak appeals were filed one by respondent No.4- Amar Nath and another appeal was filed by respondent No.6-Jai Prakash. The aforementioned chak appeals were registered as appeal No.290 of 2023 **computerized Case No.202354165300000535** and appeal No.295 of 2023 **computerized case No.202354165300000563** before Settlement Officer of Consolidation. Settlement Officer of Consolidation heard both the appeals and vide order dated 25.07.2023 appeal No.290 filed by Amar Nath was allowed as well as Appeal No. 295

filed by Jai Prakash was also allowed in part and plot No.876 was declared as C.H.18. By the aforementioned order the parties were adjusted on their respective plots. Against the appellate order dated 25.07.2023 passed in aforementioned two appeals, one revision under Section 48 of U.P.C.H. Act was filed by petitioners before Deputy Director of Consolidation, which was registered as revision No.753 of 2023, computerized case No.202354165300000753. There was delay of two months and 10 days in filing the revision before Deputy Director of Consolidation. The revisions was heard by Deputy Director of Consolidation and vide order dated 09.12.2024, the revision filed by petitioner has been dismissed on the ground of limitation as well as on merit. Hence this writ petiton for the following relief:

"(1) A writ of certiorari to quash the judgment and order dated 09.12.2024 passed respondent No.2 (Annex No.1 to the writ petiton) revision No.666 of 2024 computerized case No.202354165300000753 under Section 48 (21) U.P.C.H. Act, 1953 Siddhnath Vs. Land Management Committee and others and judgment and order dated 25.07.2023 passed by respondent No.3 in Appeal No.290 of 2023 computerized Case No.202354165300000535 under Section 21 (2) of U.P.C.H. Act Amarnath Vs. Om Prakash and others and Apepal No.295 of 2023 computerized case No202354165300000563 under Section 21 (2) of U.P.C.H. Act, Jai Prakash Vs. Amarnath and others."

3. Learned counsel for the petitioner submitted that chak of the petitioner was affected by the order of Settlement Officer of Consolidation in the chak appeals filed by private respondents, accordingly, petitioner filed a revision before Deputy Director of Consolidation, but Deputy Director of Consolidation has dismissed

the revision filed by petitioner in arbitrary manner. He further submitted that under the appellate order, the number of chak of the petitioner has been increased from 3 to 4 as well as petitioner has been deprived from his original holdings. He submitted that Deputy Director of Consolidation has not examined the entire issue in proper manner and dismissed the revision on the ground of limitation as well as on merit as such the impugned revisional order as well as appellate order should be set aside and stage of consolidation officer should be maintained.

4. On the other hand, Mr. Vineet Kumar Singh and Mr. Abhishek Dwivedi learned counsel appearing for respondent Nos. 4 and 5 submitted that both parties have been adjusted on their respective plot by the appellate order according to the provisions contained under Section 19 of U.P.C.H. Act. They further submitted that two appeals filed by private respondents were decided by Settlement Officer of Consolidation in proper manner. He further submitted that time barred revision filed by petitioner without any prayer for condonation of delay in filing the revision has been rightly dismissed under the impugned order. They further submitted that revisional court has rightly dismissed the petitioner's revision on the ground of limitation as well as on merit. They further submitted that no explanation has been given for condonation of delay in filing the revision, as such revision cannot be entertained by Deputy Director of Consolidation against the appellate order passed in appeal under Section 21 (2) of U.P.C.H. Act. They further submitted that no interference is required against the impugned orders passed by Settlement Officer Consolidation and Deputy Director of Consolidation.

5. I have considered the arguments advanced by the learned

counsel for the parties and perused the record.

6. There is no dispute about the fact that in chak appeal filed by private respondents, the parties were allotted chak. There is also no dispute about the fact that time barred chak revision filed by petitioner has been dismissed by Deputy Director of Consolidation under the impugned order on the ground of limitation as well as maintainability.

7. The limitation provided for filing the revision under Section 48 of U.P.C.H. Act is 30 days as per Rule 111 of U.P.Consolidation of Holdings, Rules, 1954 (hereinafter referred to as the U.P.C.H. Rules). It is also material that revision was filed after two months 10 days from the date of order without any prayer for condonation of delay and the Deputy Director of Consolidation has dismissed the revision on the ground of limitation as well as on merit which is not proper exercise of jurisdiction by Deputy Director of Consolidation.

8. Hon'ble Apex Court in the case reported in **JT2007 (4) SC 514 Bhag Mal and others Vs. Munshi (Dead) by Lrs. and Ors.** has held that provisions of statute of limitation cannot be construed in a pedantic manner. Paragraph No.17 of the judgment rendered in **Bhagmal (Supra)** runs as under:

" The provisions of statute of limitation cannot be construed in a pedantic manner. This is now a well known principle of law. Had the appeal been dismissed on merit, indisputably the period of limitation would have started from the date of dismissal of the Second Appeal. The respondents themselves preferred an appeal. The appeal was a continuation of a suit. Appellants herein could not, thus, have been held to be aware of the fact that during pendency thereon Bansi would die or the appeal shall abate. Let us consider a hypothetical situation. An appeal abates after three years of the judgment and decree passed by the first appellate court and in that situation the appellant would have no chance

to reap the benefit thereof, if the submission of the learned counsel appearing on behalf of the respondent is accepted. The law, in our opinion, cannot be construed in a manner which would defeat the ends of justice. In fine, when an appeal/suit abates, the same may not amount to adjudication of a decree on merit but indisputably it would attain finality. Decision on merits is not the only test to determine the finality of decision. Finality gained due to abatement is an illustration of the aforementioned variety. The declaratory decree, in that view of the matter passed in favour of the respondents had attained finality only when the order dated 14.10.1977 was passed."

9. The crux of the matter is that there was delay of one month and 10 days in filing the revision under Section 48 of U.P.C.H. Act, as such the interest of justice requires that revision should be decided on merit after granting benefit of Section-5 of Limitation Act with further liberty to petitioner to file fresh application for condonation of delay along with affidavit.

10. Considering the facts and circumstances of the case, matter requires reconsideration of petitioner's revision under Section 48 of U.P.C.H. Act after considering delay condonation matter first taking liberal view on delay condonation matter, so that the chak revision may be decided on merit in accordance with law. Since there was no application for condonation of delay neither any prayer was made in the revision for condonation of delay, it will be proper that petitioner should file separate application for condonation of delay along with affidavit explaining the delay of One month and ten days before the revisional court so that delay condonation matter may be considered by Deputy Director of Consolidation in proper manner.

11. Considering the entire facts and circumstances of the case, impugned revisional order dated 09.12.2024 passed by respondent No.2/ Additional District Magistrate (F & R)/ Deputy Director of

Consolidation Mirzapur is liable to be set aside and the same is hereby set aside. **The writ petition stands allowed in part** and matter is remitted back before respondent No.2/ Additional District Magistrate (F & R) Mirzapur to register the revision on original number. Petitioner is directed to file fresh application for condonation of delay along with affidavit in support of the aforementioned revision. Respondent No.2/Deputy Director of Consolidation is directed to take liberal view on delay condonation matter by passing necessary order and decide the revision on merit after affording proper opportunity of hearing to the parties expeditiously preferably within a period of three months from the date of production of certified copy of this order. It is further directed the revisional court shall issue notice to all the opposite parties in the revision so that every party may get opportunity of hearing before final disposal of the revision.

Order Date :- 5.4.2025

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