



2025:004 - 1 K03:29474

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 11553 of 2025

A.F.R.

Smt. Gyanpati And Another

.....Petitioner(s)

Versus

Addl. Commissioner (Admin.) Ayodhya Division
Ayodhya And 11 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Rama Pati Shukla, Shrey Shukla
Counsel for Respondent(s)	: C.S.C., Mohan Singh, Niteesh Kumar, Rajeev Narayan Pandey

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Sri R.P. Shukla, Sri A.K. Pandey, and Shreya Shukla, learned counsel for petitioners as well as Sri Upendra Singh, Additional Chief Standing Counsel, Sri Dev Prakash Mishra, Additional Chief Standing Counsel and Sri Yogehs Kumar Awasthi, learned Standing Counsel for respondent Nos. 1 & 11, Sri Mohan Singh, learned counsel for respondent No. 112 and Sri Anup Kumar Pandey, learned counsel for respondent Nos. 9 & 10 and Sri Rajeev Narayan Pandey, learned counsel for respondent No. 2.

2. In the present writ petition, the petitioner has assailed the validity of the order dated 19.08.2025 passed on a review application as well as order dated 18.07.2025 passed by Additional Commissioner (Administration), Ayodhya Division, Ayodhya.

3. It has been submitted by learned counsel for petitioner that the dispute in the present case pertains to the proceedings initiated U/S 176 of U.P.Z.A. & L.R. Act with regard to the partition of land situated at Kata No. 237 Gata No. 253 and 432K as well as Khata No. 238 Gata No. 325. It has been submitted that the aforesaid land was recorded in the name of Mewa Lal who had four sons, namely, Tilak Ram, Ichha Ram, Atma Ram and Balram and Atma Ram had filed an application for partition claiming 1/4th share for himself and according to him the remaining 3 brothers also had 1/4th share in the said property.

4. It has been submitted that a settlement had taken place between the parties and all of them were in possession of their respective shares. It is stated that the aforesaid partition was oral and accordingly in order to effect a formal partition the suit was filed by Atma Ram U/S 176 of U.P.Z.A. & L.R. Act. The said suit was initially dismissed in default but subsequently a restoration application was filed and the said application was allowed and the suit was restored by means of order dated 10.07.2008.

5. The trial court decided the matter by means of judgment dated 03.03.2010 and the shares of all the sons of Mewa Lal were fixed at 1/4th share and directions were issued for preparation of a final decree. Subsequently the Kurra reports were prepared but the petitioners had aggrieved with the Kurra reports as they were never given opportunity of hearing and moved an application on 22.06.2015 to go through the Kurra report and also to file his objections. It is stated that his application remained pending and a final order was passed on 30.01.2016 confirming the Kurra report dated 11.02.2015.

6. While passing the final orders, the trial court held that the despite giving several opportunities no objections were filed in the Kurra report and accordingly proceeded to confirm the said report. The petitioners had filed an appeal U/S 331(3) of the Act of 1950 before the Additional Commissioner (Administration), Ayodhya which was rejected by means of order dated 18.07.2025. The Appellate Court had recorded that several opportunities were granted before preparation of kurra but no objections were filed and as the grounds raised by the petitioners in appeal were not taken before the court below he did not think it proper to deal with the said issues and rejected the appeal preferred by the petitioner.

7. It is in the aforesaid circumstances that the petitioner had filed an application for review of the judgment and order dated 18.07.2025 which has been rejected by means of order dated 19.08.2025 holding that the review is not maintainable.

8. With regard to the maintainability of the review application, it has been submitted by learned counsel of petitioners that as per provisions of Section 341 of the U.P.Z.A. & L.R. Act, provisions of Code of Civil Procedure, 1908 had been made expressly applicable to all the proceedings under the U.P.Z.A. & L.R. Act.

9. He has further submitted that as per Rule 339 of U.P.Z.A. & L.R. Rules, provisions of Sections 256, 261, 273, 274, 277 to 282 of the U.P. Tenancy Act, 1939 have been made applicable to the suits and proceedings specified in Section (ii) of the Act and appeal, revision and review arisen therefrom. He has further submitted that the dispute pertaining to partition has also been specifically mentioned in Schedule 2 to the said Act. He further relies upon the provisions of Section 274 of the U.P. Tenancy Act, 1939 to submit that even the Act of 1939 provided for review by the other courts and therefore in any view of the matter there is no doubt that the appellate authority i.e. Additional Commissioner (Administration) had committed manifest error by rejecting the application for review only on account of the fact that such power was not vested in him.

10. Learned Standing Counsel on the other hand has opposed the writ petition but could not dispute the aforesaid facts.

11. I have heard contentions of rival parties and perused the record.

12. The only question which is engaging the contention of this Court is with regard to power of review by the appellate authority under the U.P.Z.A. & L.R. Act. The relevant provisions which are necessary for adjudication of the said case are quoted hereinbelow:-

"341. Application of certain Acts to the proceeding of this Act.

- Unless otherwise expressly provided by or under this Act, the provisions of the Indian Court Fees Act, 1870 (VII of 1870), the Code of Civil Procedure, 1908 (V of 1908), and the [Limitation Act, 1963 (XXXVI of 1963)] [Substituted by U.P. Act No. 12 of 1965.], [including Section 5 thereof] [Inserted by U.P. Act No. 37 of 1958.] shall apply to the proceedings under this Act.

Rule 339 of U.P.Z.A and L.R Rules runs as follows:—

“339.(1) Unless otherwise expressly provided by or under the Act the provisions of Sections 256, 261, 273, 274, 277 to 282 of the U.P Tenancy Act, 1939 shall apply to the suits and proceedings specified in Schedule II of the Act and appeals, revisions and reviews arising therefrom.

(2) In respect of the suits or proceedings mentioned in sub-rule (1) the first appeal shall lie within thirty days of the date of the decree or order appealed against and the second appeal, if any, shall lie within ninety days of the date of the decree or order passed by the court of first appeal.”

Sec 274 of U.P. Tenancy Act, 1939-

274. Review by other Courts

"Every other Court shall be competent to review its judgment in accordance with the provisions of the Code of Civil Procedure, 1908, and the provisions of Order XLVII of the said Code shall apply to any such review"

13. A reading of the aforesaid statutory provisions indicate that Section 274 specifically provides for the power of review and at the time when U.P.Z. A. & L.R. Act was enacted provisions of U.P. Tenancy Act were repealed but certain provisions of U.P. Tenancy Act were saved by under Rule 339 of U.P.Z. A. & L.R. Rules, 1952 which were expressly made applicable including provisions of Section 274 of the U.P. Tenancy Act, 1939. Apart from which Section 341 had already made Code of Civil Procedure applicable to the proceedings under U.P. Z.A. & L.R. Act."

14. Needless to say that order 47 Rule 1 of the CPC was already made applicable by the U.P.Z.A. & L.R. Act. This aspect of the matter was duly considered by the Hon'ble Supreme Court in the case of **Hakim Ali Vs. Board of Revenue**, 1991 Supp(1) SCC 565, which had observed as under:-

"5. By Section 293 of the Zamindari Abolition Act the provisions of Chapters IX and X of the Land Revenue Act have been made applicable to applications in proceedings under the Zamindari Abolition Act. The said provision which is contained in Chapter X of the Zamindari Abolition Act provides as under:

“293. Provisions of Act 3 of 1901 applied to applications and proceedings under this chapter.— The provisions of Chapters IX and X of the United Provinces Land Revenue Act, 1901, as amended by this Act shall, insofar as they are not inconsistent with the provisions of this Act, apply to applications and proceedings made or taken under this chapter.”

6. Section 339, which makes provision for repeals, is as follows:

“339. Repeals.— With effect from the date of vesting in respect of any area—

(a) the enactments mentioned in List I of Schedule III shall be and are hereby repealed in their application to such area;

(b) so much of any other enactments as is inconsistent with the provisions of Chapters VIII to X of this Act shall be deemed and is hereby repealed in its application to such area;

(c) the United Provinces Land Revenue Act, 1901 (U.P. Act 3 of 1901), shall in its application to such area be deemed to be and is hereby amended to the extent mentioned in column 3 of the List II of the Schedule aforesaid:

Provided that where under this Act any interpretation has to be made, action taken or thing done in accordance with the provisions of the United Provinces Tenancy Act, 1939 (U.P. Act 17 of 1939), the same may be made, taken or done as if it has not been repealed by this Act.”

9. It is no doubt true that under Section 293 of the Zamindari Abolition Act, the provisions of Chapters IX and X of the Land Revenue Act have been made applicable only to applications and proceedings made or taken under Chapter X of the Zamindari Abolition Act and since Section 203 falls in Chapter IX of the Land Revenue Act, it would not be applicable to proceedings made or taken under provisions other than those contained in Chapter X of the Zamindari Abolition Act. In our view, however, Section 293 cannot be read in isolation. It has to be read along with Section 339. In clause (c) of Section 339 it is prescribed that with effect from the date of vesting in respect of any area, the Land Revenue Act shall, in its application to such area, be deemed to be and is hereby amended to the extent mentioned in column 3 of the List II of Schedule III of the said Act. As a result the provisions of the Land Revenue Act containing the amendments as mentioned in column 3 of List II of Schedule III, would be applicable to the area to which the Act has been made applicable with effect from the date of vesting. Under column 3 of List II of Schedule III certain modifications and amendments have been

made in the various provisions of the Land Revenue Act, but no modification has been made in Section 203 of the said Act. This would mean that the provisions of the Land Revenue Act, including Section 203, are applicable to the area in which the Zamindari Abolition Act has been applied with effect from the date of vesting.

11. This distinction based on the difference in terminology used in Sections 293 and 339(c) does not, in our view, advance the case of the appellants. It only indicates that Section 293 is limited in its scope in applying the provisions of Chapters IX and X of the Land Revenue Act to applications and proceedings under Chapter X of the Zamindari Abolition Act whereas Section 339(c) is much wider in amplitude inasmuch as it makes all the provisions of the Land Revenue Act applicable to the area to which the provisions of the Zamindari Abolition Act are applied. The Land Revenue Act contains provisions relating to appointments and jurisdiction of revenue officers, maintenance of maps and records and appointment of Kanungos and Lekhpals for that purpose, revision of maps and records, settlement of the revenue, revision of assessment, partition and union of Mahals, collection of revenue, procedure of Revenue Courts and Revenue Officers, appeals reference and revision, etc. As a result of the application of the provisions of the Land Revenue Act, as amended to the extent mentioned in column 3 of List II of the Schedule to the Zamindari Abolition Act, to the area to which the provisions of the Zamindari Abolition Act are applied, all the various provisions of the Land Revenue Act would be applicable to all the matters dealt with by the Zamindari Abolition Act including applications and proceedings under the said Act. The width and amplitude of the said provision contained in Section 339(c) of the Zamindari Abolition Act cannot, in our opinion, be curtailed by reference to Sections 293 and 341 of the said Act."

15. This Court further finds that the scope of review under the aforesaid provisions was also considered by the Hon'ble Supreme Court in the case of **Niyaz Ahmad Vs. Board of Revenue, U.P. Allahabd, 1978 LJ (NOC) 25) 11**, relevant portion quoted as under:

"16. Therefore, our conclusion is that the provisions of section 341 of U.P. Act 1 of 1951 read with Rule 339 of the U.P. Zamindari Abolition and Land Reforms Rules and section 273 of the U.P. Tenancy Act lead to

only one inference, namely, that the requirement of law is that the Board should exercise its power of review in conformity with the guidelines furnished by Order 47 of the Code of Civil Procedure."

16. Accordingly, the aforesaid dispute is no longer res integra and there are catena of judgments to indicate that power of review vested in the authorities under the U.P.Z.A. & L.R. Act and therefore, the appellate authority has committed manifest error in dismissing the review application of the petitioner on the ground that the same was not maintainable.

17. In light of the above, the writ petition is **allowed**. The impugned order dated 19.08.2025 is set aside. The matter is remitted to respondent No. 1 to consider and decide the application for review preferred by the petitioner in accordance with law. He is also directed to decide the same within a period of two months from the date a certified copy of this order is produced before him.

18. It is made clear that this Court has not consider the prayer of the petitioners for setting aside the order dated 18.07.2025 inasmuch as that is. the order the review of which would now be pending before the appellate authority.

(Alok Mathur,J.)

December 16, 2025

Ravi/