



2026:AHC:81724

Order Reserved.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
CIVIL MISC REVIEW APPLICATION No. - 145 of 2025**

Smt Lallo Devi @ Chandrawati and 2 others

.....Applicant(s)

Versus

Subhash Kumar Patel and 5 others

.....Opposite Party(s)

Counsel for Applicant(s)	: Ashish Kumar Singh, Ramji Singh Patel
Counsel for Opposite Party(s)	: C.S.C., M.N. Singh

Court No. - 68

HON'BLE ASHUTOSH SRIVASTAVA, J.

1. The instant review petition has been preferred at the instance of the applicants, who were the respondent Nos. 6, 7 and 8 in the above captioned writ petition seeking the review of the final judgment and order dated 6.3.2025 passed by this Court in Civil Misc. Writ Petition No. 2872 of 2024 (Subhash Kumar Patel and others versus Board of Revenue and others) whereby and whereunder the writ petition was allowed against the review applicants.

2. The writ petition was filed questioning the orders dated 16.5.2017, 23.2.2019, 12.4.2022 and 17.1.2024 passed by the Lekhpal, Naib

Tehsildar, Addl. Commissioner (Admin.) and the Board of Revenue, respectively. The dispute between the parties related to Khata No. 91 of village Karmajeetpur, Pargana Dehat Amanat, Tehsil and District Varanasi which stood recorded in the name of Beerbal @ Ramesh Chandra s/o Jawahar.

3. It was the case of the writ petitioners/respondents herein that the contesting respondents 6 to 8 (review applicants herein) by playing fraud upon the revenue authorities by stating that Beerbal, the recorded tenure holder, having died and claiming themselves to be his daughters whereas in fact they were his married sisters obtained an order dated 15.03.2014 in Case No. 1391 of 2014 under Section 34 of the U.P. L.R. Act mutating their names in his place. The review applicant No. 3 (respondent No. 8 in the writ petition) made an application for issuance of a death certificate in respect of Beerbal. An inquiry was conducted by the Municipal Corporation, Varanasi as also the S.S.P. Varanasi and a report dated 05.12.2014 was submitted stating that there was no evidence of death of Beerbal. On the detection of the fraud played, the Tehsildar (Judicial), Sadar Varanasi vide order dated 02.05.2014 set aside the order dated 15.03.2014 mutating the names of the review applicants and dismissed the mutation application. The order dated 02.05.2014 was assailed by the review applicants before the Additional Commissioner (Administration) in revision under Section 219 of the L.R. Act, 1901. The revision was dismissed by a detailed order dated 05.08.2015. The review applicants further challenged the order dated 05.08.2015 in revision before the Board of Revenue which too dismissed the revision vide order dated

19.09.2016. The review applicants then approached this Court by means of writ petition no. 48385 of 2016. The writ petition was decided vide order dated 05.10.2016 relegating the review applicants (petitioners in the writ petition) to the alternative remedy of filing a suit in view of Section 40-A of the U.P. Land Revenue Act, 1901 and directing that no third party rights shall be created over the land in dispute for a period of three months. It was contended that the review applicants instead of filing a suit in collusion with the Lekhpal concerned again got their names mutated in the revenue records vide order dated 16.05.2017. The order dated 16.05.2017 was challenged by the writ petitioners (respondent No. 6 herein) before this Court by filing Writ C No. 45527 of 2017. The writ petition was disposed of vide order dated 22.09.2017 giving liberty to the writ petitioners to file an application under Section 38 of the U.P. Revenue Code, 2006 before the appropriate authority within 15 days who was directed to pass final orders within three months. The review applicants were restrained from transferring the disputed land and status quo was directed to be maintained for a period of four months. It was also submitted that this Court while passing the order dated 22.09.2017 observed that the entry of names of the review applicants was unauthorised and such fictitious entry could be corrected under Section 38 of the U.P. Revenue Code, 2006.

4. Learned counsel for the writ petitioners (respondent No. 1 to 6 herein) had argued that they preferred an application under Section 38 of the Revenue Code, 2006 as directed before the learned SDM, (Sadar), Varanasi. The S.D.M., however, on grounds untenable in law declined to

set aside the order dated 16.05.2017 mutating the names of the review applicants vide order dated 23.02.2019. The writ petitioners (respondent Nos. 1 to 6 herein) assailed the order dated 23.02.2019 by means of Writ-C No. 23719 of 2019. The writ petition was, however, disposed of by relegating the writ petitioners to file an appeal under Section 35(2) of the U.P. Revenue Code, 2006. The writ petitioners filed appeal before the SDM, Sadar Varanasi. The SDM dismissed the appeal vide order dated 12.04.2022. The writ petitioners thereafter assailed the order dated 12.04.2022 in revision no. 872 of 2022 before the Board of Revenue. The Board of Revenue committing the same mistake dismissed the revision filed by the writ petitioner vide order dated 17.01.2024.

5. It had been vehemently submitted by learned counsel for the writ petitioners that the fraud played by the review applicants was apparent as noticed by this Court under its order dated 22.09.2017 passed in Writ Petition No. 45527 of 2017, yet the order dated 16.05.2017 passed by the Revenue Inspector under P.A.-11 mutating the names of the review applicants was not set aside by the Lekhpal who was in collusion with the review applicants. It was established on record that Beerbal @ Ramesh Chandra was very much alive as the review applicants had themselves moved an application in O.S. No. 562 of 2003 stated to be pending before the Additional Civil Judge (Jr. Div.), Court No. 5, Varanasi admitting the fact that the whereabouts of Beerbal @ Ramesh Chandra was not known since 12.01.2000 and civil death be presumed. It was contended that till a competent court does not declare civil death, it could not be presumed that Beerbal @ Ramesh Chandra had died and

till then, the review applicants could not claim to be heirs of the deceased Beerbal. It is accordingly prayed that the writ petition deserved to be allowed.

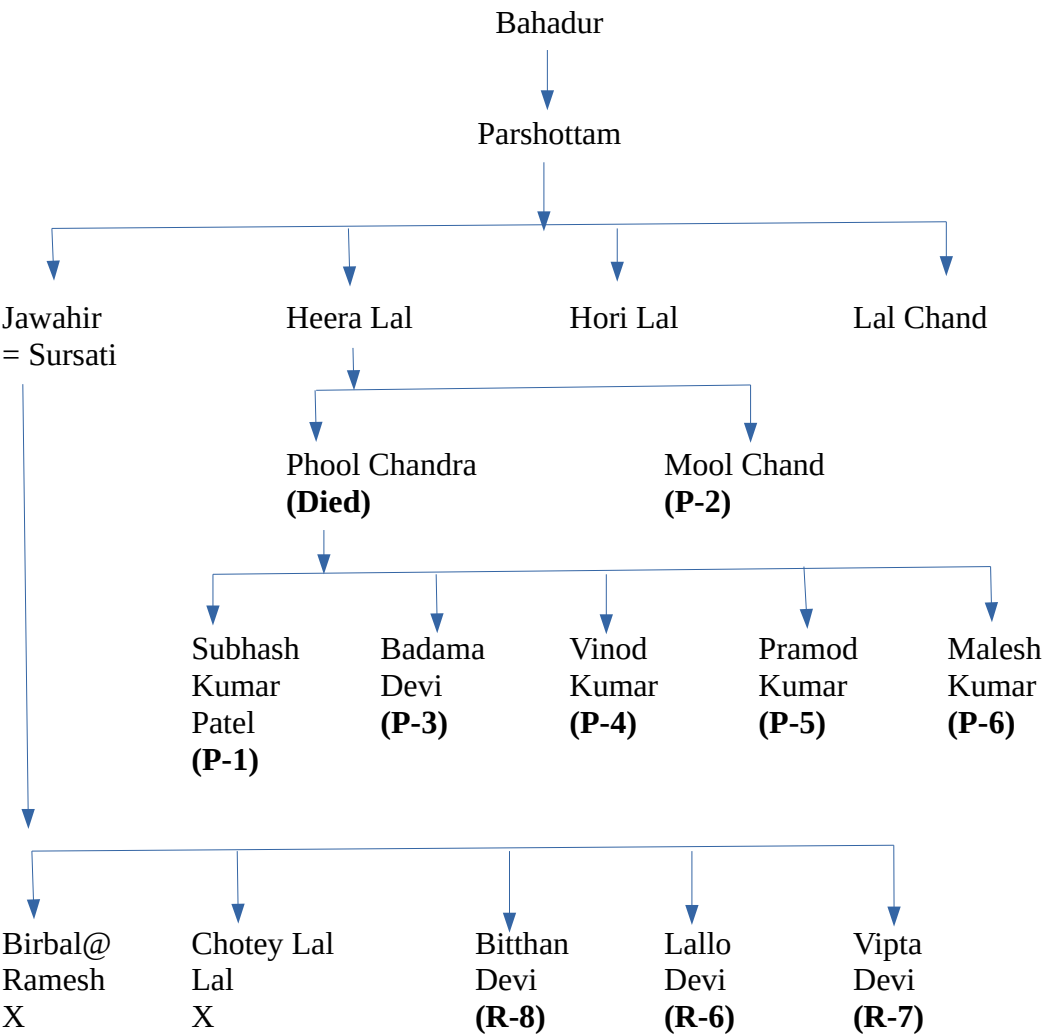
6. On the other hand, Sri Ashish Kumar Singh, learned counsel representing the contesting respondents no. 6 to 8 (review applicants herein) had submitted that the impugned orders were just and proper and require no interference by this Court. The Revenue Authorities under the impugned orders have accorded adequate reasons for arriving at findings in favour of the answering review applicants and such findings are not liable to be disturbed. The writ petitioners has utterly failed to show how they have any right, title or interest in the khata in question and how they are entitled to it in contrast to the review applicants. Beerbal @ Ramesh Chandra expired on 15.07.2012 and certificate to that effect was issued by the competent authority which has not been challenged. The orders impugned were liable to be upheld and the writ petition liable to be dismissed with costs.

7. On the above backdrops, this Court proceeded to decide the *lis* between the parties. It found that admittedly Beerbal @ Ramesh Chandra son of Jawahar was the recorded Bhumidhar of the disputed Khata No. 91. The writ petitioners (respondents 1 to 6 herein) were the cousin brother and sons of the cousin brothers of Beerbal @ Ramesh Chandra while the contesting respondents (review applicants herein) were his real sisters. Both the writ petitioners and the contesting respondents had set up their respective claims of succession over the Khata No. 91. This Court under the order dated 6.3.2025 sought to be

reviewed, considering the respective submissions of the counsel for the parties and taking note of the fact that undisputedly Beerbal @ Ramesh Chandra had expired on 15.7.2012, the rights of the parties would flow from Section 108 of the U.P. Revenue Code, 2006 which related to the general order of succession to Male Bhumidhars, Asami and Government Lessee held that the writ petitioners being the cousin brothers and sons of the cousin brother of Beerbal @ Ramesh Chandra while the contesting respondents 6 to 8 (review applicants) being the married sisters of Beerbal @ Ramesh Chandra and not the married daughters were not entitled to inherit the estate of the deceased Beerbal @ Ramesh Chandra. Accordingly, the order dated 16.5.2017 passed by the respondent No 5, order dated 23.2.2019 passed by the respondent No. 3 and order dated 12.4.2022 passed by respondent No. 2 as also the order dated 17.1.2024 passed by the respondent No. 1 upholding the claim of the respondent Nos. 6 to 8 (review applicants) were set aside and the writ petition was allowed.

8. Shri Ashish Kumar Singh, learned counsel appearing for the review applicants (respondent Nos. 6 to 8 in the writ petition) vehemently submits that this Court erred in concluding that the review applicants were not entitled to succeed to the estate of their deceased brother Beerbal @ Ramesh Chandra. Shri Singh has further submitted that this Court while concluding its findings about death of Beerbal @ Ramesh Chandra although relied upon the provisions containing the general order of succession of male Bhumidhar, however, escaped to note that Beerbal was son of Jawahir and the petitioners were the sons of

real brother of Jawahir apart from two other brothers, namely, Hori lal and Lal Chand. Since, father of the contesting respondents 6 to 8 (review applicants), namely, Jawahir were four others and the petitioners were/are the sons of one brother of father i.e. uncle’s sons, therefore, the provisions of Section 108 (2) of U.P. Revenue Code, 2006 would have no application and no share would devolve upon the said petitioners. Shri Singh has also passed on a pedigree chart for the perusal of the Court, which has been taken on record and is also reproduced hereunder:-



9. Having heard Shri Ashish Kumar Singh, learned counsel for the review applicants and having given my anxious consideration to the submissions advanced and materials placed on record, I find substance in

the submissions advanced by learned counsel for the review applicant. Shri M. N. Singh, learned counsel for the writ petitioners/respondents here has not appeared despite due notice.

10. A perusal of the provision of Section 108 (2) of the U.P. Revenue Code, 2006, which governs the field and lays down the law for succession of agricultural land shows that the review applicants being the married sisters of the deceased Bhumidhar Beerbal @ Ramesh Chandra are placed higher in line of succession i.e. Clause “h” and shall inherit the estate of Beerbal @ Ramesh Chandra in exclusion of the writ petitioners (respondent Nos. 1 to 6 herein).

11. The above being the legal position, I am satisfied that an error was committed by the Court while passing the order dated 6.3.2025 and the same is liable to be reviewed and is reviewed.

12. Consequently, the ***review application is allowed***. The order dated 6.3.2025 allowing the writ petition stands reviewed. The ***writ petition is dismissed***.

13. Consequence to follow.

(Ashutosh Srivastava,J.)

April 15, 2026
Ravi Prakash