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**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - B No. - 472 of 2004

Mohd. Hashim And Anr.

.....Petitioner(s)

Versus

D.D.C. Pratapgarh And 2 Ors.

.....Respondent(s)

Counsel for Petitioner(s)	: S.N. Ojha, Abhishek Mishra, Ashok Kr. Tripathi, Hari Om Pandey, Hemant Tripathi, Ram Lagan Mishra, Shailesh Tripathi
Counsel for Respondent(s)	: C.S.C., Arun Kumar Tripathi, Ashok Kumar Tripathi, Dharmendra Kumar, R.N. Gupta

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Sri Hari Om Pandey, learned counsel for petitioners, learned Standing Counsel respondent No. 1 and Sri Pankaj Gupta, learned counsel for respondent No. 3.

2. It has been submitted by learned counsel for petitioners that present dispute pertains to the property which prior to independence was held by Zamindar Uma Pratap Singh, Lal Shambhu Narain Singh, Vrijendra Bhan Singh and Rajendra Bhan Singh of Village Sarai Maghai, Pargana & Tehsil - Patti, District Pratapgarh. With regard to Plot No. 679m area 1-0-0 of which Izazatnama was given to one Malhoo for planting grove (Bagh). Malhoo was the father of the petitioners but his name was not recorded in the revenue records, however an entry was made in column 4 of the khatauni of the concerned area.

3. It has been submitted that subsequently when the village came under consolidation operations and Malhoo, the father of the petitioners was found to be in possession of the disputed property for 50 years and Plot No. 679 was a big plot and accordingly objections were filed before Assistant Consolidation Officer by Malhoo which were rejected. Subsequently he filed an appeal before Settlement Officer Consolidation which was also rejected by means of order dated 20.01.1971 in Appeal

No. 740 (Malhoo Vs. Gram Sabha) and a further revision filed by Malhoo before Dy. Director of Consolidation was allowed in his favour by means of judgment and order dated 23.08.1972.

4. While allowing the appeal of Malhoo, the Dy. Director of Consolidation has set aside the order of the Settlement Officer Consolidation dated 20.01.1971 and directed that Plot No. 679m 1-0-1 be recorded in the name of Malhoo as Sirdar. As the order dated 23.08.1972 was not complied with, an application under Rule 109 of the Consolidation of Holding Rules was preferred by Malhoo the father of the petitioners. The said application was allowed on 20.02.1997 by Consolidation Officer and soon thereafter an application for recall was preferred by respondent No. 2 on 04.09.2003. In the application for recall, it was stated that the order of Dy. Director of Consolidation dated 23.08.1972 was forged and no rights would accrue to the petitioners on the basis of a forged order. It was further stated that the application under Rule 109 of Consolidation of Holding Rules was highly belated and was filed more than 25 years after the order was passed in revision by the Dy. Director of Consolidation and consequently prayed for rejection of the application under Rule 109 of Consolidation of Holding Rules.

5. The Dy. Director of Consolidation considered the application filed by private respondent and held that such an application would not be maintainable at the behest of a person who does not have any interest or right in the disputed property but considered the provisions of Section 11(C) of the Consolidation of Holding Act and held that in case a land of the State or gaon sabha is sought to be usurped by any private individual then the revenue authorities would be duty bound to take notice of such proceedings and pass appropriate orders thereon. He thereafter proceeded to hold that the record pertaining to the appeal No. 740 in which the order dated 23.08.1972 was passed was missing and therefore it could not be confirmed whether the proceedings were genuine or forged and accordingly it is in the aforesaid to hold that order dated 23.01.1972 was forged and fabricated and does not exist on record and consequently no rights would pass on the petitioner on the basis of such a forged order and thereby directed the land to be recorded in favour of the State. By his order dated 04.09.2003 even the application for recall filed by the

petitioner was rejected by means of order dated 26.02.2004 and accordingly in the present writ petition validity of both the aforesaid orders has been challenged.

6. Though, on the basis of material on record this Court would have proceeded to uphold the order of the Dy. Director of Consolidation inasmuch as there was no material available to indicate that the petitioners had in fact instituted revisional proceedings before the Dy. Director of Consolidation which resulted in passing of the order dated 23.08.1972 and there would not have been any material to interfere in the findings recorded by the Dy. Director of Consolidation holding that the said order was forged and fabricated.

7. It is in the aforesaid circumstances at the request of the petitioners, one day time was granted to him and today when the matter has been taken up an original certified copy of the order dated 23.08.1972 has been produced before this Court. The copy of the said order has also been perused by learned counsel for respondents and from a bare perusal of the said order it would not be concluded that the said order is forged or fabricated. It seems that the petitioners had the copy of the said order with them but never produced it in the proceedings before the Dy. Director of Consolidation and only a typed copy of the aforesaid order was filed, which led the Dy. Director of Consolidation to return a finding that the proceedings as well as order was forged. We take note of the fact that substantial rights of the petitioner would be effected in case the certified copy produced before us is authentic and genuine.

8. In light of the fact that original certified copy has been produced before this Court, this Court finds that the merit of the case had not been adjudicated by the Dy. Director of Consolidation correctly, accordingly the matter deserves to be adjudicated on merits. In light of the above and with the consent of the parties, the writ petition is **allowed**. The orders dated 26.02.2009 and 04.09.2003 are set aside. The matter is remitted to the Dy. Director of Consolidation to decide the matter afresh, the petitioners are directed to produce original certified copy of the order dated 23.08.1972 which has been produced before this Court and the respondents shall also be given liberty to file a fresh objections / counter

affidavit and the proceeding be concluded by Dy. Director of Consolidation with expedition.

9. It is expected that Dy. Director of Consolidation shall conclude the aforesaid proceedings expeditiously, say, within a period of three months from the date a certified copy of this order is produced before him.

10. It is made clear that this Court has not examined merits of the controversy and merely on the basis of production of the original certified copy of the order has persuaded this Court to allow the writ petition and remand the matter back for adjudication afresh.

(Alok Mathur,J.)

October 30, 2025

Ravi/