2026:AHC:210512

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 2554 of 2023

Dharmveer Singh

.....Petitioner(s)

Versus

State Of U.P. And 8 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ashish Kumar Srivastava, Atul Kumar Srivastava
Counsel for Respondent(s)	:	Anand Kumar, C.S.C., R.P. Mishra

Court No. - 51

HON'BLE ARUN KUMAR, J.

1. Heard Sri Ashish Kumar Srivastava, learned counsel for the petitioner, learned Standing Counsel for respondent nos. 1 to 5 and Sri Rajkumar Dhama, holding brief of Sri Anand Kumar, learned counsel for respondent nos. 6 to 9.

2. The present petition has been filed challenging the orders of the respondent nos. 4 and 5 dated 28.09.2015 and 25.06.2015 passed in proceedings under Section 54 of UP Land Revenue Act, 1901 as upheld by the respondent no. 2 in revision by the order dated 23.06.2023.

3. It is contended by learned counsel for the petitioner that the land in dispute belong to one Ramphal, who had 1/4 share in it along with his brothers Balu, Taleshwar and Khawani. On the death of Ramphal on 24.03.2001, an application was moved by Balu for being recorded as his sole heir and legal representative inheriting his share. It is next contended that the said application purported to have been filed under Section 54 of UP Land Revenue Act, 1901 (hereinafter referred to as 'Act, 1901') was not maintainable as the said provision relates to correction of records during the survey proceedings. As specific provision for recording succession is provided under Section 34 of the Act, 1901, the said application under Section 54 of the Act, 1901 was liable to be rejected. It has been further contended that the petitioner being the brother's son, was also entitled to inherit the share of Ramphal along with Balu as provided under Section 171(2)(e) of UP Zamindari Abolition and Land Reforms Act, 1950 (hereinafter referred to as Act, 1950'). It is further contended that the Board

of Revenue erred in dismissing the revision filed by the petitioner, against the orders passed by respondent nos. 4 & 5 being barred by time as the petitioner had been pursuing a remedy before this Court in Writ C No. 58437 of 2016, which remain pending from 2016 till 27.11.2019, a period which was liable to be ignored while considering the period of limitation for filing the revision. It is further contended that as the entire proceedings under challenge in revision was without jurisdiction, the short delay of 69 days was liable to be condoned and the order of respondent no. 2 dated 23.06.2023 dismissing the revision being barred by time was arbitrary and illegal.

4. Per contra, learned counsel appearing for respondent nos. 6 to 9 has contended that on the date of death of Ramphal i.e. 24.03.2001, under the provisions of Section 171(2)(e) of the Act 1950, brother alone inherited the property and the amendment bringing the son of pre-deceased brother under Clause (e) was incorporated by the Amending Act No. 35 of 2001, which was notified on 19.09.2001. It is next contended that the application filed by Balu was filed under Section 54 of the Act, 1901 as the land in dispute was under the survey operation being riverside land. It is next contended that the immediately after the death of Ramphal on 24.03.2001, the application was filed by Balu on 19.04.2001, which remain pending and was allowed on 25.06.2015. It is next contended that the question of jurisdiction was never raised before respondent nos. 4 & 5 till the filing of the revision before the Board of Revenue. It is further contended that the orders passed by respondent nos. 4 & 5 recording the name of Balu under mutation proceedings, was only for fiscal purposes and does not create or extinguish any right of a person. Therefore, as Balu was the only heir of Ramphal on the date of his death, no interference is warranted with the orders under challenge.

5. I have considered the submissions made by learned counsel for the parties and peruse the records.

6. The orders of respondent nos. 4 & 5 records categorical finding about the death of Ramphal on 24.03.2001. The succession of Ramphal shall be governed by the provisions of Section 171(2)(e) of the Act, 1950 has been accepted by both the parties.

7. In view of the aforesaid facts, under the unamended provision of Section 171(2)(e) of the Act of 1950 a surviving brother alone would succeed to the

share of Ramphal and not the brother's son. The findings recorded by respondent nos. 4 & 5 are justified and does not require interference. However, regarding the jurisdiction of respondent nos. 4 & 5 to entertain the application of Balu under Section 54 of Act, 1901, the perusal of the orders passed by respondent nos. 4 & 5 shows that no objection regarding jurisdiction was raised in appeal by the petitioner. There is nothing on record to show that survey operations were not going on in the village, therefore, setting aside of the order for academic purposes only for passing fresh orders under Section 34 of Act, 1901 is not justified as there exists no dispute that Balu was only surviving brother of Ramphal on 24.03.2001, when the succession opened.

8. It is admitted by the petitioner that the revision filed by him before the respondent no. 2 was not accompanied by any application for condonation of delay beyond the prescribed period of limitation. The benefit of Section 14 of the Limitation Act, 1963 for condoning the delay in availing a remedy is not automatic unless it is claimed by filing an appropriate application for condonation.

9. In the aforesaid circumstances, the order of respondent no. 2 in dismissing the revision of the petitioner being barred by time in absence of any application for condoning the delay, is justified and does not warrant interference.

10. In view of the fact that the recording of the name of Balu as heir of Ramphal being in accordance with law, no interference is required with the impugned orders only because the order of mutation had to be passed under Section 34 of the Act, 1901 and not under Section 54 of the said Act. The said orders passed by respondent nos. 4 and 5, are always subject to determination of rights of the parties by a Court of competent jurisdiction.

11. In the aforesaid circumstances, the writ petition lacks merit and is accordingly **dismissed**.

October 7, 2026
Sartaj

(Arun Kumar,J.)

Digitally signed by :-
SARTAJ AHMAD
High Court of Judicature at Allahabad