2026:AHC:208967

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 2800 of 2026

Satish And 2 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ram Chandra Kushwaha
Counsel for Respondent(s)	:	C.S.C., Ruduvant Pratap Singh

Court No. - 50

HON'BLE ASHUTOSH SRIVASTAVA, J.

Heard Shri R.C. Kushwaha, learned counsel for the petitioners, Shri Tarun Gaur, learned Standing Counsel for the State-respondents as also Shri R.P. Singh, learned counsel for the caveator-respondent No. 3.

The instant writ petition has been filed questioning the order dated 25.08.1999 passed by the Deputy Director of Consolidation, Saharanpur, in Revision Nos. 100 and 505 as also the order dated 13.05.2026 passed in case No.RST/0663 of 2025. A further writ in the nature of mandamus commanding the respondent not to interfere in the peaceful possession of the petitioners over the land in dispute has been prayed for.

It is the case of the writ petitioners that the respondent No. 3, namely, Raj Kumar son of Pawan Singh filed a revision, being Revision No.100 assailing the order of the Consolidation Officer dated 10.03.1998 and order dated 06.11.1993 passed by the Settlement Officer of Consolidation. The respondent No.3 also filed another revision, being Revision No. 505 assailing the order dated 08.11.1988 passed by the Settlement Officer of Consolidation. The Deputy Director of Consolidation, Saharanpur consolidated both the revisions, decided and allowed the revisions by a common order dated 25.08.1999 taking note of the fact that the respondents in the revision (father of the petitioners) did not appear despite service. The order dated 25.08.1999 however could not be implemented in the records. After nearly 22 years of the passing of the order dated 25.08.1999 the respondent No. 3 initiated proceedings for implementation of the order dated 25.08.1999 under Rule 109A(1) of the

Consolidation Holdings Rules before the Consolidation Officer. The Consolidation Officer vide order dated 08.05.2024 allowed the case under Rule 109A(1).

The writ petitioners filed restoration application on 08.05.2024 along with delay condonation application asserting that they had no knowledge of the order 08.05.2024 or the order dated 25.08.1999.

The Deputy Director of Consolidation under the impugned order dated 13.05.2026 has rejected the restoration application of the petitioners on the ground that the reasons stated by the petitioners to seek recall of the order dated 25.08.1999 was not satisfactory inasmuch as in the application it was alleged that the father of the petitioners, who was a party in the revisions 100 and 505 had not been put to notice and that the order dated 25.08.1999 was exparte against him. The Deputy Director of Consolidation however noticed that the father of the petitioners who was very much aware of the proceedings had engaged the services of one Ravi Dutt Sharma Advocate to represent him in the proceedings and he failed to appear in the proceedings. The Deputy Director of Consolidation in such circumstances declined to give benefit of the Section 5 of the Limitation Act to the petitioners and rejected their restoration application.

Learned counsel for the writ petitioners has argued that the Deputy Director of Consolidation has rather taken a technical view of the matter and declined to condone the delay. Admittedly, from the recitals of the order dated 25.08.1999, it is apparent that the order was exparte against the father of the petitioners. Learned counsel for the petitioners contends that the Deputy Director of Consolidation ought to have condoned the delay by imposing costs upon the petitioners and recalled the order dated 25.08.1999. The impugned order dated 13.05.2026 passed by the Deputy Director of Consolidation in rejecting the restoration application of the petitioners has resulted in grave injustice to the petitioners. It is accordingly prayed that the writ petition be allowed as prayed.

Per Contra, learned counsel for the caveator respondent No. 3 as also learned Standing Counsel opposing the writ petition submit that the order

impugned is just and proper and calls for no interference by this Court inasmuch as the order dated 25.08.1999 cannot be said to be exparte. The father of the petitioners had engaged a counsel to represent him in the proceedings but he failed to appear. The explanation for the delay that occasioned of almost 25 years has rightly found to be unsatisfactory. It is also argued that since the order dated 25.08.1999 was not exparte no recall/ restoration was maintainable as recall of the order would tantamount to review of the order which is not permissible under the law.

I have heard the respective counsels for the parties and have perused the records.

I find that the Deputy Director of Consolidation under the impugned order has rightly declined to condone the delay in filing the restoration application and rejected the restoration application. No illegality or irregularity can be said to have been committed by Deputy Director of Consolidation so as to warrant any interference by this Court. The order dated 25.08.1999 deciding the Revisions reflects that Gata No.470/2 area 0-5-0 at the CO level had by mistake been included in Chak No. 389 whereas it ought to have been shown in Chak No. 348. The mistake was corrected by the order dated 25.08.1999 which was sought to be recalled after 25 years by the petitioners.

Considering the totality of the circumstances this Court is not inclined to grant any indulgence to the petitioners.

The writ petition fails and is ***dismissed***.

No order as to costs.

(Ashutosh Srivastava,J.)

October 5, 2026
Ravi Prakash

Digitally signed by :-
RAVI PRAKASH
High Court of Judicature at Allahabad