2026:AHC:208762

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 30457 of 2026

Kurban And Another

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anil Kumar Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Anil Kumar Mishra, learned counsel for the petitioners and Mr. Nand Lal Maurya, learned Standing Counsel for the State-respondents.

2. Brief facts of the case are that in the proceeding under Section 34 / 35 of U.P. Land Revenue Act, 1901 an order dated 1.4.2016 was passed by the Tahsildar for recording the name of respondent no.5/ Naseem Ahmad in place of Mst. Munibe wife of Haneef on the basis of registered sale deed executed on 23.11.2013. Against the order dated 1.4.2016 passed by Tashsildar, appeal under Section 210 of U.P. Land Revenue Act, 1901 was filed on behalf of respondent no.6/ Dil Bahar as well as another appeal was filed by petitioners, which were consolidated and heard together. Sub-Divisional Officer vide order dated 11.4.2022 dismissed the aforementioned appeal. Against the appellate order dated 11.4.2022, revision under Section 219 of U.P. Land Revenue Act, 1901 was filed by petitioners, which was heard and dismissed by the Additional Commissioner vide order dated 2.1.2024. Restoration application filed on behalf of petitioners against the order dated 2.1.2024 has been rejected vide order dated 29.5.2026. Hence, this writ petition on behalf of petitioners for the following reliefs:

"issue a writ, order or direction in the nature of certiorari, quashing the impugned orders dated 29.05.2026 and 02.01.2024 passed by the respondent no. 2 (Annexure No. 1 to this Writ Petition) as well as order dated 11.04.2022 passed by the respondent no. 3 (Annexure No. 2 to this Writ Petition) and order dated 01.04.2016

passed by the respondent no. 4 (Annexure No. 3 to this Writ Petition)."

3. Learned counsel for the petitioners submitted that the Tahsildar has initially rejected the mutation application filed by private respondent no.5 but later on the earlier order was recalled and proceeding was decided afresh directing to record the name of respondent no.5 on the basis of sale deed which cannot be relied upon in any manner. He further submitted that the appeal, revision as well as restoration application filed by petitioners have been dismissed without considering the case as setup in appeal / revision / restoration application. He further submitted that all the impugned orders passed by respondent nos.2, 3 & 4 should be set aside and mutation application filed by respondent no.5 should be rejected. He further submitted that the civil suit for cancellation of sale deed in question is pending before civil Court.

4. On the other hand, learned Standing Counsel for the State submitted that no interference is required against the concurrent finding of fact recorded by mutation Court. He further submitted that the civil suit filed by petitioner is pending, as such, petitioner should press the suit proceeding in accordance with law rather writ petition against the orders passed in the mutation proceeding.

5. I have considered the argument advanced by learned counsel for the petitioners, learned Standing Counsel for the State and perused the records.

6. There is no dispute about the fact that the mutation application filed by respondent no.5 has been allowed by the Tahsildar and the order of Tahsildar has been maintained in appeal and revision.

7. The record demonstrates that on the basis of registered sale deed executed by the petitioners' mother in favour of respondent no.5, the Tahsildar has passed the order of mutation in favour of respondent no.5. The record further demonstrates that the appeal, revision as well as restoration filed by petitioners have been dismissed / rejected. The record further demonstrates that civil suit for cancellation of sale deed in question is pending before the civil Court, as such, the petitioner should contest the proceeding of civil suit in accordance with law.

8. The mutation proceeding cannot be kept pending for unlimited period rather the same should be given finality and the order passed in the mutation proceeding shall be subject to the adjudication in dispute by the civil Court which is pending in the instant matter in respect to the sale deed in question.

9. Considering the entire facts and circumstances of the case, no interference is required in the matter.

10. The writ petition is ***dismissed***. Needless to say that the impugned orders passed in the mutation proceeding shall be subject to the adjudication of dispute by the Civil Court in respect to the sale deed in question.

(Chandra Kumar Rai,J.)

October 6, 2026
Rameez

Digitally signed by :-
RAMEEZ AHMED
High Court of Judicature at Allahabad