HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 3561 of 2026

Tikori And 10 Others

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Adya Prasad Tewari
Counsel for Respondent(s)	:	C.S.C., Mohit Verma, Sachida Nand Tripathi

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Court No. - 50

HON'BLE ASHUTOSH SRIVASTAVA, J.

Heard Shri A.P. Tiwari, learned counsel for the writ petitioners, Shri A.C. Nisahd, learned Standing Counsel for the State respondents as also Shri S.N. Tripathi, along with Shri Mohit Verma, learned counsels for the Caveator respondent no. 4 namely Patharu S/o Late Badori.

The writ petition has been filed questioning the legality, propriety and correctness of the order dated 10.07.2026, passed by the Deputy Director of Consolidation, in Revision, whereby and whereunder the Revision at the instance of the respondent no. 4 have been partly allowed, the order dated 04.07.2025, passed in two Appeals has been set aside and matter has been remitted back to the Settlement Officer of Consolidation for deciding the same afresh in the light of the directions made in the order.

Shri A.P. Tiwari, learned counsel for the petitioners has argued that the Consolidation Officer vide its order dated 02.06.2016 in proceedings under Section 9-A (2) of the CH Act, dismissed the objections of the predecessor in interest of the petitioners and ordered to expunge the name of Chanmati and Phoolchand, from Khata No. 352 and enter the name of Patharu on the basis of registered Sale Deed dated 24.08.1983. A Restoration Application dated 04.09.2017 was filed for recalling the order dated 02.06.2016 on the ground that it was a nullity having been filed against a dead person namely Basant. The Consolidation Officer dismissed the said application vide order dated 13.10.2021 without looking into the records. The order dated 02.06.2016 was also

implemented under Rule 109-A of the UPCH Rules vide order dated 29.11.2021. Two separate Appeals were filed by the petitioners against the orders dated 02.06.2016 and 29.11.2021. The Settlement Officer of Consolidation after considering the entire materials on records allowed both the Appeals vide order dated 04.07.2025. The Settlement Officer of Cosnsolidation set aside the orders dated 02.06.2016, 13.10.2021 and 29.11.2021 and directed the names of the petitioners to be entered over the land in question. The order dated 04.07.2025 was assailed by the respondent no. 4 in Revision No. 580 of 2026 and Revision No. 581 of 2026. The petitioners filed objections. The Deputy Director of Consolidation without looking into the records and considering the contentions of the petitioners allowed the Revisions of the respondent no. 4 and remitted the matter back to the Settlement Officer Consolidation to decide the Appeals afresh in the light of observations made vide order dated 10.07.2026 impugned in the writ petition.

Shri A.P. Tiwari, learned counsel for the petitioners has argued that the order impugned passed by the Deputy Director of Consolidation cannot be justified in the facts and circumstances of the case that stood attracted to the case of the writ petitions.

Reliance has been placed upon the decisions of the Coordinate Bench in ***Writ B No. 108 of 2023 (Angad Pratap Singh and others vs. Deputy Director of Consolidation/ Additional District Magistrate (F/R), Lakhimpur Kheri and Others)*** decided on 10.02.2023. Learned counsel for the petitioner submits that the Deputy Director of Consolidation committed manifest error of law in remanding the matter to the Settlement Officer Consolidation for decision afresh in as much as the Deputy Director of Consolidation is clothed with ample powers under Section 48 to look into the legality, propriety and correctness of the order/ proceedings before him. It is contended that the Deputy Director of Consolidation ought to have decided the matter himself rather than remand the matter to the Settlement Officer Consolidation for de-novo consideration.

In substance it is sought to be argued by the learned counsel for the petitioner that sufficient material existed and was on record for the Deputy Director of Consolidation to decide the *lis* and setting aside the

order of the Settlement Officer of Consolidation was completely unnecessary and unwarranted.

Per contra, learned Standing Counsel appearing for the state respondents as well as Shri S.N. Tripathi, learned counsel for the respondent no. 4, have tried to justify the order passed by the Deputy Director of Consolidation on the ground that adequate reasons have been given by the Deputy Director of Consolidation to partly allow the revision and set aside the order of the Settlement Officer Consolidation and the order of the Deputy Director of Consolidation cannot be said to suffer from any infirmity so as to warrant interference by this Court in exercise of the powers under Article 226 of the Constitution of India.

Having heard the respective counsels for the parties and having perused the records the Court finds that the Deputy Director of Consoldiation was not at all justified to remand the matter back to the Settlement Officer Consolidation for consideration afresh. The Deputy Director of Consolidation also manifestly erred in law in failing to exercise its powers under Section 48 to decide the *lis* between the parties himself.

In order to adjudicate the controversy involved in the the present petition, it is appropriate to reproduce Section 48 of the Act of 1953, which is as under:-

> "[48. Revision and reference. - (1) The Director of Consolidation may call for and examine the record of any case decided or proceedings taken by any subordinate authority for the purpose of satisfying himself as to the regularity of the proceedings; or as to the correctness, legality or propriety of any order] [other than an interlocutory order] passed by such authority in the case or proceedings, may, after allowing the parties concerned an opportunity of being heard, make such order in the case or proceedings as he thinks fit.
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> (2) Powers under sub-section (1) may be exercised by the Director of Consolidation also on a reference under sub-section (3).
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> (3) Any authority subordinate to the Director of Consolidation may, after

allowing the parties concerned an opportunity of being heard, refer the record of any case or proceedings to the Director of Consolidation for action under sub-section (1).

[Explanation. -] [(1)] For the purposes of this section, Settlement Officers, Consolidation, Consolidation Officers, Assistant Consolidation Officers, Consolidator and Consolidation Lekhpals shall be subordinate to the Director of Consolidation.

Explanation (2) - For the purposes of this section the expression 'interlocutory order' in relation to a case or proceeding, means such order deciding any matter arising in such case or proceeding or collateral thereto as does not have the effect to finally disposing of such case or proceeding.

[Explanation (3). - The power under this section to examine the correctness, legality or propriety of any order includes the power to examine any finding, whether of fact or law, recorded by any subordinate authority, and also includes the power to re-appreciate any oral or documentary evidence.]

This Court in the judgment dated 30.04.2019 passed in the case of ***Gulab Chand v. D.D.C. reported in 2019 SCC OnLine All 4756*** has observed as under:-

"14. This Court has given a thoughtful consideration to rival submissions advanced on both sides. It is true, no doubt, that powers of the Deputy Director of Consolidation under Section 48 of the Act have always been regarded as wide, though inhibited in some regard, being a Court of Revision. The import of the powers of the Deputy Director of Consolidation under Section 48 of the Act as they have been always understood has been succinctly laid down by the Supreme Court in Sheo Nand v. Deputy Director of Consolidation, Allahabad, (2000) 3 SCC 103, where in para graphs 20 & 21 of the report, it has been held:

"20. The section gives very wide powers to the Deputy Director. It enables him either suo motu on his own motion or on the application of any person to consider the propriety, legality, regularity and correctness

> of all the proceedings held under the Act and to pass appropriate orders. These powers have been conferred on the Deputy Director in the widest terms so that the claims of the parties under the Act may be effectively adjudicated upon and determined so as to confer finality to the rights of the parties and the revenue records may be prepared accordingly.
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> 21. Normally, the Deputy Director, in exercise of his powers, is not expected to disturb the findings of fact recorded concurrently by the Consolidation Officer and the Settlement Officer (Consolidation), but where the findings are perverse, in the sense that they are not supported by the evidence brought on record by the parties or that they are against the weight of evidence, it would be the duty of the Deputy Director to scrutinise the whole case again so as to determine the correctness, legality or propriety of the orders passed by the authorities subordinate to him. In a case, like the present, where the entries in the revenue records are fictitious or forged or they were recorded in contravention of the statutory provisions contained in the U.P. Land Records Manual or other allied statutory provisions, the Deputy Director would have full power under Section 48 to reappraise or re-evaluate the evidence-on-record so as to finally determine the rights of the parties by excluding forged and fictitious revenue entries or entries not made in accordance with law."

In the opinion of the Court, the directions in the impugned order were entirely unnecessary and could be very well ordered or looked into by the Deputy Director of Consolidation himself in the exercise of powers conferred under Section 48 of the CH Act. There is no dispute to the proposition that the Deputy Director of Consolidation in exercise of powers under Section 48 of the CH Act has ample power to examine the legality, propriety and correctness of any order which also includes power to examine findings whether of fact or law recorded by any Subordinate Authority as also the power to re appreciate any oral or documentary evidence.

For the reason aforesaid, the Court is of the considered view that interference in the impugned order is warranted. The Court concurs with the view of the Coordinate Bench taken in the case of ***(Angad Pratap Singh and other vs. Deputy Director Consolidation/Additional District***

Magistrate (F/R) Lakhimpur Kheri and others) Writ B No. 108 of 2023 decided on 10.02.2023 and Writ-B No. 791 of 2023 (Janardan @ Janardan Prasad Tiwari and 6 others Vs. Deputy Director of Consolidation and two others) reported in 2025(169) RD 414, Writ Petition No. 14128 of 1985 (Seeta Ram Vs Deputy Director of Consolidation and others) reported in 2007(1020 RD 113).

Accordingly, the impugned order dated 10.07.2026 passed by the Deputy Director of Consolidation, Gorakhpur, in Revision Nos. 580 of 2026 (Patharu vs. Triloki & others) amd 561 of 2026 (Patharu vs. Chanmati and others) under Section 48 (1) of UPCH Act, are hereby set aside.

The writ petition is ***allowed***.

The matter is remitted back to the Deputy Director of Consolidation, Gorakhpur, to decide the matter afresh after affording opportunity of hearing to the parties concerned expeditiously preferably within three months from the date of service of certified copy of the order of this Court strictly in accordance with law.

(Ashutosh Srivastava,J.)

October 27, 2026
Deepak/

Digitally signed by :-
DEEPAK KUMAR KUSHWAHA
High Court of Judicature at Allahabad