HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 3974 of 2026

Kailash

.....Petitioner(s)

Versus

State Of U.P. And 8 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Manoj Kumar Dubey, Vipul Kumar Dubey
Counsel for Respondent(s)	:	C.S.C., Mainuddin Ahamad, Manish Kumar Pandey

Court No. - 50

HON'BLE ASHUTOSH SRIVASTAVA, J.

Heard Shri A. K. Upadhyay under the authority of Shri Vipul Kumar Dubey, learned counsel for the petitioner, Shri A. C. Nishad, learned Standing Counsel for the State-respondent Nos. 1 to 3 as also Shri Manish Kumar Pandey, learned counsel for the caveator-respondent Nos. 5 to 9.

The writ petition has been filed questioning the legality, propriety and correctness of the order dated 30.6.2026 passed by the Deputy Director of Consolidation in Revision as also the order dated 6.8.2024 passed by the Consolidation Officer in proceedings under Section 9A (2) of the Consolidation of Holdings Act (hereinafter referred to as "the Act").

The dispute between the parties relates to Khata No. 1768 comprising of Gata Nos. 6621 area 0.646 hectares situate in village Vishen Dubari, Pargana Natthupur, Tehsil Madhuban, District Mau.

The Consolidation Officer vide order dated 8.4.1981 in proceedings under Section 9A (2) of the Act ordered that in the Khata No. 1768, the name of Kailash (petitioner) son of Ram Lakhan be recorded as co-sharer on the basis of a compromise entered between Kailash, Radha Kishun and Ramadhar. After 31 years of passing of the order by the Consolidation Officer, a restoration application was filed seeking recall of the order dated 8.4.1981 on 4.1.2012. The petitioner opposed the restoration application on the ground of maintainability as the order dated 8.4.1981 was not exparte. It was also the case of the petitioner that Ram Lakhan

son of Bilkari alias Palakdhari was also known as Ghurbeen and had three sons, Kailash (petitioner) being the eldest, Ramadhar and Radha Kishun. After the death of Ram Lakhan, the names of Ramadhar and Radha Kishun were recorded in place of Ram Lakhan in the revenue records, but the name of Kailash was omitted. This mistake was corrected by the Consolidation Officer by passing the order dated 8.4.1981 on the basis of compromise. The Consolidation Officer vide order dated 6.8.2024 allowed the restoration application treating the order dated 8.4.1981 to be exparte and restored the proceedings under Section 9A (2) of the Act to its original number granting benefit of Section 5 of the Limitation Act. Against the order dated 6.8.2024, the petitioner preferred the Revision before the Deputy Director of Consolidation. The Deputy Director of Consolidation under the impugned order dated 30.6.2026 has rejected the revision of the petitioner and consequently, upheld the order dated 6.8.2024 of the Consolidation Officer.

Learned counsel for the petitioner has vehemently argued that the Deputy Director of Consolidation miserably failed to exercise his jurisdiction under Section 48 of the Act. Section 48 of the Act confers wide powers to the Deputy Director of Consolidation to consider the propriety, legality and 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 of Consolidation 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. In order to satisfy himself as to the regularity of the proceedings or to the correctness legality and propriety thereof it is imperative for the Deputy Director of Consolidation to summon the records of the Court below from whose order the revision was filed.

Learned counsel for the petitioner has further argued that the petitioner has been non suited on the ground that the revision was filed against an interlocutory order and thus was not maintainable. He submits that the aspect regarding the maintainability of the Revision was very much pressed before the Revisional Court but the same did not find favour with the Deputy Director of Consolidation and the Deputy Director of

Consolidation proceeded on an erroneous assumption that the order dated 6.8.2024 allowing the restoration application of the contesting respondents was interlocutory in nature and as such, proceeded to dismiss the same as non maintainable.

Learned counsel for the petitioner has further argued that the Deputy Director of Consolidation has failed to exercise his jurisdiction vested under Section 48 of the Act inasmuch as, the Deputy Director of Consolidation ought to have proceeded to decide the revision on merits after considering the materials on record.

Learned counsel for the petitioner has, accordingly, prayed that the orders impugned are liable to be set aside and the writ petition may be allowed by directing the Deputy Director of Consolidation to pass fresh orders deciding the revision on merits.

Learned Standing Counsel as also learned counsel representing the contesting respondents have tried to justify the orders passed by the Consolidation Authorities impugned in the writ petition by submitting that the orders impugned are just and proper and call for no interference by this Court. It is, accordingly, submitted that the writ petition deserves outright rejection.

I have heard learned counsels for the parties and have considered their rival submissions.

On the question of maintainability of the revision, the issue is no longer res-integra and stands decided by the decision of this Court reported in ***2014 (122) RD 464***. The Deputy Director of Consolidation ought to have taken note of the said decision which was cited before him. The revision was certainly maintainable and ought not to have been rejected as not maintainable. Upon perusal of the order of the Deputy Director of Consolidation, the Court finds that the Deputy Director of Consolidation has elaborately discussed the respective cases of the parties but has not arrived at any conclusion rather has proceeded to reject the revision as not maintainable.

In the opinion of the Court, the approach of the Deputy Director of

Consolidation in dealing with the revision is not proper and calls for interference by this Court in exercise of powers under Article 226 of the Constitution of India.

Accordingly, the order dated 30.6.2026 passed by the Deputy Director of Consolidation in Case No. 3071 of 2024 (Computerized Case No. 202454155100003071) (Kailsah versus Radha Kishun and others), under Section 48 (1) of the Act is set aside. The writ petition stands **allowed to that extent**.

The matter is remitted back to the Deputy Director of Consolidation, Mau with the direction to consider all aspects of the matter and pass a reasoned and speaking order deciding the rights of the parties on the materials on record, strictly, in accordance with law, expeditiously preferably within **Three Months** from the date of service of certified copy of the order of this Court upon him.

No order as to costs.

(Ashutosh Srivastava,J.)

November 2, 2026
Ravi Prakash

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