2026:AHC:207244

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 4429 of 2026

Abhay Patel

.....Petitioner(s)

Versus

State Of U.P. And 17 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Diwan Saifullah Khan
Counsel for Respondent(s)	:	Bhupendra Kumar Tripathi, C.S.C., Vijai Shanker Tripathi, Vinod Shankar Tripathi

Court No. - 51

HON'BLE ARUN KUMAR, J.

1. Heard Sri S.C. Verma, learned counsel for the petitioner, learned Standing Counsel for respondent nos. 1 & 2 and Sri Vinod Shankar Tripathi, learned counsel for respondent nos. 3 to 5.

2. Present petition has been filed challenging the order of the Board of Revenue dated 17.07.2026 entertaining the Revision No. 2922 of 2026 directing the parties to maintain status quo and not to create any third party rights during the pendency of revision.

3. It is contended by learned counsel for the petitioner that revision filed against the ex parte preliminary decree dated 18.06.2026 was not maintainable as it was a decree against which appeal lies.

4. Learned counsel appearing for the contesting respondents states that in view of Section 209 of U.P. Revenue Code, 2006, against an order or decree passed ex parte, no appeal was maintainable and the party aggrieved could move recall application for setting aside such order. He relied upon a Co-ordinate Bench judgement of this Court passed in **Surendra Deo vs. Board of Revenue at Allahabad and 7 others; 2026:AHC:184189 (bearing Writ-B No. 2988 of 2023)** decided on 03.09.2026, in which this Court has held the revision to be maintainable.

5. Learned counsel for the petitioner at this stage contended that the Court may be pleased to dispose of the present writ petition directing the disposal of the revision itself in accordance with the directions contained in the judgment of this Court in the case of **Surendra Deo (Supra)**.

6. Having considered the submissions of the learned counsel for the parties, the present writ petition is **disposed of** with the direction to the Board of Revenue, respondent no. 2 to decide the Revision No. 2922 of 2026 in accordance with the judgment of this Court passed in **Surendra Deo (Supra)**, with the following directions:-

"(i) The Board of Revenue shall consider and decide, in accordance with law, the objection regarding maintainability of the revision, including the applicability of Sections 209(g), 209(h) and 210 of the U.P. Revenue Code, 2006.

(ii) While considering Section 209(h), the Board shall bear in mind that the statutory bar against an appeal under that clause is attracted where the order or decree has in fact been passed exparte or by default. The mere assertion of a party that the order was exparte shall not, by itself, be treated as conclusive of the question.

(iii) Similarly, the applicability of Section 209(g) shall be determined upon consideration of whether the order or decree was in fact passed with the consent of the parties.

(iv) Nothing contained in this judgment shall be construed as a finding that the judgment and decree dated 18.06.2026 was passed exparte, by default or with the consent of the parties.

(v) The Board of Revenue shall decide the question of maintainability and thereafter the revision, if found maintainable, strictly in accordance with law and after affording due opportunity of hearing to all concerned parties, within a period of six months from the date of the production of the certified copy of this order."

October 5, 2026
Sartaj

(Arun Kumar,J.)

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