

# Ambey Kumar Singh vs State Of U.P. And Others on 31 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:14455

RESERVED

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

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WRIT - B NO. 16 OF 2025

Ambey Kumar Singh

Versus

State of U.P. and others

....Respondents

Appearance :-

For Petitioner : Mr. Pramod Kumar Singh Paliwal,

For Respondents : Mr. Sanjay Kumar Ray, Standing

Mr. Achal Singh, Advocate for

HON'BLE J.J. MUNIR, J.

This writ petition is directed against an order of Deputy Director of Consolidation, Chitrakoot dated 19.10.2024, dismissing the petitioner's revision and affirming an order made by the Settlement Officer of Consolidation, Chitrakoot dated 31.01.2024, dismissing the petitioner's Appeal No. 479 of 2023, arising out of an order of the Consolidation Officer dated 16.05.1980 as barred by time.

2. The short facts necessary to determine this motion are that a time-barred appeal was preferred by the petitioner, Ambey Singh, against the order made by the Consolidation Officer in Case No. 4413, State v. Ambey Singh, dated 16.05.1980, under Section 9A(2) of the Uttar Pradesh Consolidation of

Holdings Act, 19531 on 30.11.2023 with a delay of 43 years. The appeal was filed with the aid of an application under Section 5 of the Limitation Act, 1963, praying for condonation supported by an affidavit.

3. The short case of the petitioner for the condonation of delay was that he purchased a one-sixth share in Plot Nos. 585 and 586 through a registered sale deed dated 26.11.1971 and another dated 02.05.1973, and still another relating to a half share in Plot No. 385 admeasuring 2-0-0. He is in possession of the land purchased on the spot. Plot No. 585 has been renumbered as Plot No. 628 and an area of 078 decimals has been recorded as abadi Class 6, leading to the petitioner's interest being seriously prejudiced. The petitioner would say that he purchased the land in dispute through registered sale deeds and it has been recorded in Class 6 erroneously. During chakbandi, Plot Nos. 585 and 586 were declared chak out and there was no change to this position. There is no justification for the land in dispute to be recorded in the Gaon Sabha khata. In CH Form 2A, it is recorded as abadi and the original land holder shown is the petitioner's vendor. The Consolidation Officer's order dated 16.05.1980 has directed Plot No. 585 admeasuring 1.50 decimals and Plot No. 586/1 admeasuring 0.95 decimals to be recorded as 'abadi shamil jot' and Plot No. 586/2 admeasuring 0.14 decimals as a road, besides 0.78 decimals in the same plot as abadi Class 6, all of which deserve to be expunged and restored to the petitioner's khata.

4. This gives a look into the nature of the petitioner's claim with a view to assess the tenability of his plea for condonation of delay, which, indeed, is huge. The explanation for the delay is that the petitioner is not a highly educated man, who has a scant understanding of the law. It is for the said reason that this delay has been occasioned, which he seeks to be condoned. The Settlement Officer of Consolidation, Chitrakoot, by his order of 31.01.2024, declined to condone this delay. The petitioner went up in revision to the Deputy Director of Consolidation, Chitrakoot, who, by the impugned order dated 19.10.2024, affirmed the Settlement Officer of Consolidation and dismissed the petitioner's revision.

5. Aggrieved, this petition under Article 226 of the Constitution has been instituted.

6. Heard Mr. Pramod Kumar Singh Paliwal, learned Counsel for the petitioner, Mr. Sanjay Kumar Singh, learned Standing Counsel appearing on behalf of respondent Nos. 1 to 4, and Mr. Achal Singh, learned Counsel appearing on behalf of respondent No. 5.

7. It is a well-regarded principle that the law comes to the aid of the vigilant and not those who are loath to enforce their rights by the invocation of appropriate remedies. One might be inclined to think that the law of limitation ultimately permits falsehood to prevail, because the one on whose side truth and justice stood, was somehow disabled, or, may be, lethargic, in seeking his remedies within the prescribed period of limitation. But, the law of limitation is based on a wider premise and profound wisdom. Apart from the principle concern of the law in giving everyone his due in accordance with his/her right, it is also imperative that there be certainty to all human affairs and transactions. The rights that have come to be settled, even erroneously, if not challenged and undone within a reasonable period of time to be fixed by law, which is generally called 'limitation', human affairs would remain in a perpetual state of flux, change and unpredictability. It is to achieve

the higher goal of stability and certainty about human affairs and rights of the citizens that rules of limitation have been invented. Of course, in cases of all delays, where there is a reasonable explanation forthcoming, generally expressed in the words "reasonable cause", transgression of limitation can and ought be condoned. It is in the nature of things and the rule of limitation itself that longer the period of delay beyond the prescribed period of limitation, more cogent and convincing should be the explanation to constitute sufficient cause. Inordinate or fantastic delays, in the invocation of remedies can, in rare cases, be condoned, if there is some extraordinary circumstance to occasion it or a wider interest to subserve. Extraordinary or fantastic delay is the period of time which generally depends upon the period of time that human affairs take to settle down one way with some permanency. The average human lifespan, too, is a consideration.

8. Now, here, the delay is 43 years, which is, indeed, a very long period of time, going by man's lifespan, within which, transactions have to be done and rights settled. This kind of delay is ex-facie unpardonable, when seen in the context of the explanation given by the petitioner, which is about lack of education. No doubt, lack of education may be a handicap in the understanding so many things, but to accept that explanation as constituting 'sufficient cause' to condone the delay of 43 years in invoking appellate procedures by a party would spell doom, both for the law and those who come to seek justice. During this long period of time, so many transactions would have taken place, all of which will be embarrassed and lead to much hardship. It is only in some rare cases like utter fraud, as noticed by one of the Authorities below, or, may be, some extraordinary situation like a man being imprisoned in a foreign country for decades, coming back to his homeland, that a fantastic delay of this kind could perhaps be considered as sufficient cause for the exercise of discretion to condone the delay involved here.

9. In the present case, there is nothing that may constitute sufficient cause to condone the mind-boggling delay of 43 years in invoking his remedies by the petitioner. We are in agreement with the Authorities below and accordingly dismiss this petition summarily.

10. The Registrar (Compliance) is directed to communicate this order to the Deputy Director of Consolidation, Chitrakoot and the Settlement Officer of Consolidation, Chitrakoot, both through the learned Chief Judicial Magistrate, Chitrakoot.

Allahabad January 31, 2025 I. Batabyal (J.J. MUNIR) JUDGE Whether the order is speaking : Yes  
Whether the order is reportable : No