

# **Jitendra And Another vs State Of U.P. And 4 Others on 1 April, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44265

Court No. - 50

Case :- WRIT - B No. - 1183 of 2025

Petitioner :- Jitendra And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Vishwa Nath Pandey

Counsel for Respondent :- C.S.C.,Kailash Nath Singh,Santosh Kumar Singh

Hon'ble Chandra Kumar Rai,J.

1. Heard learned counsel for the petitioners, Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Santosh Kumar Singh, learned counsel for the contesting respondents and learned Standing Counsel for the State-respondents.

2. Brief facts of the case are that Smt. Lalpari daughter of Mangal filed an objection dated 17.10.1979 under section 9-A(2) of U.P. Consolidation of Holdings Act 1953 (hereinafter referred to as U.P.C.H. Act) for recording of her name as co-tenure holder of plots of Khata No. 130 as well as for separation/ partition of her 1/3 share. The aforementioned objection was dismissed for non prosecution vide order dated 20.09.2014. Restoration-application filed by respondent No.5 against the order dated 20.09.2014 was allowed and proceeding under Section 9-A (2) of U.P.C.H. Act was restored to its original number. Consolidation Officer ultimately passed the final order dated 16.12.2022 dividing the share of petitioners as well as respondent No.5 in respect to plot of khata No.130 situated in Village-Kasia and plots of khata No. 255 & 620 situated in village-Kathkuiyan.

Petitioners challenged the order dated 16.12.2022 by way of time barred appeal under Section 11 (1) of U.P. C.H. Act before Settlement Officer of Consolidation. Two more appeals were filed before Settlement Officer of Consolidation and all the three appeals were clubbed and heard together. Settlement Officer Consolidation vide final order dated 10.01.2024 allowed all the three appeals setting aside the order dated 16.12.2022 as well as 28.06.2023 and divided the share in respect to plots of all the three khata considering the right of vendees also. The order dated 10.01.2024 has attained finality. In pursuance of the final order dated 10.01.2024, a report dated 07.05.2024 was submitted by Consolidation Officer under Rule 109-A of U.P. Consolidation of Holdings Rules, 1954 (hereinafter referred to as U.P.C.H. Rules) for implementation of the order dated 10.01.2024. On the objection of respondent No.5 against the report dated 07.05.2024, Consolidation Officer vide order dated 14.08.2024 rejected the report dated 07.05.2024 and directed for preparation of fresh schedule in the matter. Petitioners challenged the order dated 14.08.2024 by way of revision under Section 48 of U.P.C.H. Act which has been dismissed vide order dated 11.03.2025. Hence this writ petition for following relief:-

"(i) issue a writ, order or direction in the nature of certiorari quashing the further proceedings of Case No.23-II under Rule 109 of U.P.C.H. Rule as well as the orders dated 11.03.2025 (Annexure No.11) passed by respondent No.2 in Revision No.866 of 2024 (Computerized No.202454054400000866) (Jitendra Versus Markandey) the order dated 10.01.2024 (Annexure No.6) passed by respondent no.3 in Appeal No.463 of 2023 (Computerized No.202354054400000463) (Jitendra and others versus Markandey) as well as order dated 14.08.2024 (Annexure No.9) passed by respondent no.4 and the pending proceeding before the respondent No.4 Consolidation Officer, Kasya, District-Kushinagar."

3. Learned counsel for the petitioners submitted that proceeding initiated under Rule 109-A of U.P. Consolidation of Holdings Rules on the basis of the illegal order passed under Section 9-A (2) of U.P.C.H. Act, should not be continued and the proceeding under Rule 109-A of U.P.C.H. Rules should be quashed. He submitted that proceeding is barred by Section 11-A of U.P.C.H. Act. He further placed reliance upon judgment of this Court reported in 2017 Law Suit (All) 2928 Abdul Aziz vs. District Deputy Director of Consolidation, Faizabad and another in support of his arguments.

4. On the other hand, Mr. R.C. Singh, learned Senior Counsel for the contesting respondents submitted that the proceeding under Section 9-A (2) of U.P.C.H. Act, has resulted into passing the appellate order dated 10.01.2024 by which share of the parties have been divided. He further submitted that vide order dated 10.01.2024 by which three appeals were decided and one appeal has been challenged by petitioners before this Court was decided as such the proceeding under Rule 109-A of U.P.C.H. Rule of U.P.C.H. Rules has been initiated by respondent No.5. He submitted that unless appellate order dated 10.01.2024 is set aside/ stayed, proceeding under Rule 109-A of U.P.C.H. Rule cannot be challenged. He further submitted that in pursuance of the appellate order under Section 11 (1) of U.P.C.H. Act, the order has been passed in the proceeding under Rule 109 A of U.P.C.H. Rules, as such the petition at the instance of the petitioners for quashing the proceeding under Rules 109 A of U.P.C.H. Rules cannot be entertained.

5. I have considered the arguments advanced by the learned counsel for the parties and perused the record.

6. There is no dispute about the fact that on the basis of the appellate order dated 10.01.2024 passed under Section 11 (1) of U.P.C.H. Act, the proceeding under Rule 109 A of U.P.C.H rules has been initiated and order has been passed by the authority.

7. In the instant matter, the title appeal filed by petitioners himself has been decided in proper manner vide order dated 10.01.2024 dividing the share of the parties considering the interest of the vendees as such there is no illegality in the initiation of the proceeding under Rule-109 A of U.P.C.H. Rule to give effect the final order passed under Section 11 (1) of U.P.C.H. Act

8. Considering the entire fact and circumstances of the case specially that the final order passed in the proceeding under Section 9-A (2) of U.P.C.H. Act/ Section 11 (1) of U.P.C.H. Act, the proceeding under Rule 109-A of U.P.C.H. Rules is going on before Consolidation Officer as such no interference can be made by this Court in exercise of Jurisdiction under Article 226 of the Constitution of India,

9. The Writ Petition is accordingly, dismissed.

Order Date :- 1.4.2025 PS\*