

(1975) 10 AHC CK 0025
In the Allahabad High Court
Case No : Writ Petition No. 9025 of 1971

Bansgopal

APPELLANT

Vs

Deputy Director of Consolidation and Others

RESPONDENT

Date of Decision : 22-10-1975

Acts Referred:

Citation : (1976) AWC 99

Hon'ble Judges : Amitav Banerji, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amitav Banerji, J.—The Petitioner was opposite party in the revision before the Deputy Director of Consolidation. The Deputy Director of Consolidation decided the revisions filed by Beauty Singh and others on the merits by an order dated 4th February, 1971. He also recorded that Bans Galpal had not appeared in Court in spite of having been served with notices. It appears that Bansgopal the Petitioner moved an application for restoration of the revision. This application came up before another Deputy Director of Consolidation. The restoration application was rejected on the ground that the revisions had been decided on the merits and, therefore, he did not find any reason to interfere with the order of his predecessor-in-office. The restoration application had not been decided on the merits. Whatever reasons had been given in the restoration application ought to have been considered on the merits. Merely because a party had been duly served does not preclude him from moving an application for restoration if for some good cause he was not able to be present on the date of the hearing of the case. The application could not be decided on the ground that since the revision had been decided on the merits a restoration application was barred. It further appears that the Petitioner had also filed an affidavit in support of the restoration application. It does not appear from the order of the Respondent No. 1 that he considered the restoration application and the affidavit on the record of the case. The restoration application should have been decided on its own merits. The

Respondent No. 1 should have decided whether a sufficient cause was made out or not. This has not been done in this case. I have considered the materials on record and I am of the view that the Respondent No. 1-A should have considered the restoration application on its own merits and not on the ground that the previous order of the Deputy Director of Consolidation on the revision was passed on merits. It will, therefore, be necessary to quash the order dated 24th June, 1971 passed by the Respondent No. 1-A and further direct that the said application for restoration be considered on the merits and decided in accordance with law. I order accordingly. The restoration application shall be heard and decided expeditiously. In view of the above circumstances I direct the parties to bear their own costs of this writ petition.