

**(1979) 07 AHC CK 0050**  
**In the Allahabad High Court**  
**Case No : Writ Petition No. 564 of 1973**

Kamla Singh

APPELLANT

Vs

Babu Ram and others

RESPONDENT

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**Date of Decision :** 20-07-1979

**Acts Referred:**

Constitution of India, 1950 — Article 226

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 3(4A), 3(4B), 44, 5(1)  
(a)

Uttar Pradesh Land Revenue Act, 1901 — Section 28

**Citation :** (1979) 07 AHC CK 0050

**Hon'ble Judges :** K.N.Goyal, J

**Final Decision :** Allowed

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## Judgement

K. N. Goyal, J.

This Writ Petition arises out of consolidation proceedings. Village Sirsia was notified by the State Government for consolidation operations while village Dulhanpur was not so notified. The dispute between the parties related to plots No. 68 and 70. A claim was filed by the opposite parties 1 and 3 to the effect that the plots aforesaid fell in village Dulhanpur and not in village Sirsia. Although according to the settlement map these plots were shown as situated in village Sirsia, the Consolidation officer, with whom the Settlement Officer Consolidation and the Deputy Director agreed, held that the village maps were incorrect and that the plots really fell in village Dulhaopur. They also directed the maps to be corrected accordingly. This decision was based on a survey got carried out by the Consolidation Officer, of the land in question. The contention of the petitioner is that the authorities who decided the case had no jurisdiction to order any such correction.

Section 28 of the U. P. Land Revenue Act gives power to the Collector to correct any error in the map and field book. Section 5 (1) (a) of the U. P. Consolidation Holdings Act gives like powers to the District Deputy Director Consolidation.

Section 3 (4B) defines the District Deputy Director Consolidation as the person who is for the time being the Collector of the District. Thus, the U. P. Consolidation, of Holdings Act also preserves the said power of the Collector by conferring it upon him in his capacity as District Deputy Director of Consolidation in relation to a village notified under the said Act.

In the present case, the District Deputy Director has not passed any order correcting the maps. The contention of the petitioner is that the Consolidation Officer, the Settlement Officer and the District Deputy Director of Consolidation had, no power to make any order of this kind. Learned counsel for the opposite parties has however, argued that the powers of a Deputy Director consolidation includes the powers of the District Deputy Director. He has invited my attention to Section 3 (4A) which defines Deputy Director, of Consolidation as an officer appointed by the State Government to exercise such powers and perform such duties of the Deputy Director of Consolidation as may be delegated to him by the State Government and including a District Deputy Director. Reliance has also been placed on the provisions of Section 44 which lays down that the State Government may, subject to such restrictions and conditions as may be specified, delegate to any officer or authority any of the powers conferred upon it by the Act or any of the powers of Director, Deputy Director, Settlement Officer and Consolidation Officer under the Act, to any officer or authority. From these provisions it has been argued by learned counsel for the opposite parties that the Deputy Director who decided the revision should be deemed to have been delegated the power to exercise all the powers of the District Deputy Director as well I find no merit in this connection. The provisions of Section 3 (4A) only" imply that the powers of a Deputy Director simpliciter may be exercised by a District Deputy Director as well, but it does not lead to an inference of the converse situation. Clause (4B) does not say that the District Deputy Director includes a Deputy Director. Thus, the powers of Deputy Director cannot, under these definitions, be exercised by any other Deputy Director. Indeed, even Section 44 does not provide for delegation of powers of a District Deputy Director to any other officer or authority. Clause in of this section provides for delegation of powers of the State Government to any Officer or authority, while clause (ii) provides for delegation powers of the Director, Deputy Director, S. O. C. and O. O to any Officer or authority. Thus, none of these clauses deals with the powers of District Deputy Director. It is, therefore, not possible even for the State Government to confer powers of District Deputy Director on any Deputy Director simpliciter. May be by virtue of the provisions of Section 44A. powers of even a District Deputy Director can conceivably be exercised by the Director or an Additional or Joint Director by virtue of these officers being authorities superior to the District Deputy Director. However, as in the present case the revision was decided not by an additional or Joint Director but by a Deputy Director, who was certainly not an authority superior to the District Deputy Director, it is not necessary for me to express any final opinion on that question.

Thus, where the question of exercise of powers of District Deputy Director arises

in any case, the Consolidation Officer, the Settlement Officer, or the Deputy Director cannot assume himself to exercise those powers but must refer the matter to the District Deputy Director for necessary action. In the instant case, another complication was that village Dulhanpur was not under consolidation at all and the order of the three authorities amounts to orders for correction of the village map and field book of that village as well. The impugned orders were thus clearly beyond jurisdiction.

In the result the Writ Petition is allowed and the orders of the Consolidation Officer (Annexure 8), Settlement Officer (Annexure10) and Deputy Director, (Annexure12 to the petition) are hereby quashed. The Consolidation Officer shall decide the matter afresh in accordance with law. No order as to costs.