

(2011) 04 AHC CK 0244

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 21542 of 2011

Lal Chandra

APPELLANT

Vs

District D.D.C./Addl. Collector (CS), Allahabad and Others

RESPONDENT

Date of Decision : 15-04-2011

Acts Referred:

Limitation Act, 1963 — Section 5

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 14, 53B

Citation : (2011) 04 AHC CK 0244

Hon'ble Judges : A.P.Sahi, J

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.

1. Heard learned counsel for the petitioner and perused the record.
2. The consolidation operation intervened in the village in the year 1973. It is alleged that on 23. 3. 1979, the petitioner's mother entered into a compromise with regard to the Khata in dispute with the contesting respondent. Their names were recorded under the order dated 23. 3. 1979 itself.
3. The petitioner contends that he was a minor at that point of time and that his mother acted against the interest of the petitioner as a result whereof the said order came to be passed about which the petitioner had absolutely no knowledge. He became a major in 1984 and upon having knowledge about the entry, he filed a Suit under Section 229B of the U. P. Z. A. & L. R. Act on 31. 8. 1989 which is stated to be pending.
4. For the first time in the year 2005, the petitioner moved an application for setting aside the order dated 23. 3. 1979 passed by the consolidation authorities. This was obviously done after 26 years of the passing of the order. Learned counsel submits that an appropriate explanation was given and there was a bona fide litigation being pursued and hence the provisions of Section 5 of the Indian Limitation Act as well as the provisions of Section 14 read with Section 53B of

the U. P. Consolidation of Holdings Act are squarely attracted. Learned counsel submits that the petitioner was entitled for the benefit of the aforesaid provisions and the delay ought to have been condoned by the authority.

5. Having perused the records, it is evident that the petitioner filed a Suit under Section 229B on 21. 8. 1989. The petitioner himself admits having come to know about the entry. The Suit was obviously filed after 10 years of passing of the order during the consolidation operations. It is, thus, clear that the consolidation operations had already concluded and the name of the contesting opposite party had already been recorded which was being disputed by the petitioner. It can, therefore, be safely presumed that the petitioner had knowledge of the proceeding before the Consolidation Authorities and there is no explanation as to why no inspection was carried out in respect of the consolidation records in the year 1989. In such a situation, the authorities have rightly come to the conclusion that the benefit of limitation cannot be granted to the petitioner at this belated stage.

There is no merit in the writ petition. The writ petition is, accordingly, dismissed.