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**(2001) 05 AHC CK 0143**  
**In the Allahabad High Court**  
**Case No : Writ Petition No. 685 of 1980**

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|-------------------------------------------|------------|
| Raja Ram (Decd.) through L.Rs. and others | APPELLANT  |
| Vs                                        |            |
| Ram Sabad and others                      | RESPONDENT |

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**Date of Decision :** 10-05-2001

**Acts Referred:**

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 4(1), 5(1)

**Citation :** (2001) 2 AWC 1651 : (2001) AWC 1651 : (2001) 3 UPLBEC 2144

**Hon'ble Judges :** U.K. Dhaon, J

**Bench :** Single Bench

**Advocate :** R.P. Singh, Jagdish Singh, S.C. Mishra and D.S. Verma, for the Appellant; L.P. Shukla, S.A. Husain, D.H. Yadav, I.D. Dwivedi and V.S. Tripathi, for the Respondent

**Final Decision :** Dismissed

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## Judgement

U. K. Dhaon, J.—Heard Sri R. P. Singh, learned counsel appearing on behalf of the petitioner and Sri V. S. Tripathi appearing on behalf of the opposite parties.

2. The petitioners have approached this Court against the order dated 8.2.1980 passed by opposite party No. 10 and the order dated 29.8.1978 passed by opposite party No. 11.

3. The brief facts of the case are that one Baiju, the Co-Bhumidhar along with Raja Ram, Rajmani, Kalpnath and Dharamraj transferred his share through the sale deed dated 16.7.1974 in favour of opposite party Nos. 1 to 6 and by another sale deed executed on the same day, i.e., 16.7.1974. transferred his share in favour of opposite party Nos. 7 to 9. Thereafter the transferees moved the application before the Consolidation Officer for mutation of their names in the revenue records. The petitioners Raja Ram and three others filed objection and the Consolidation Officer rejected the mutation application on the ground that the transfer was bad as no permission u/s 5 (1) (c) (U) of U. P. Consolidation of Holdings Act was obtained from the Settlement Officer, Consolidation prior to the

execution of the sale deed. The said order was challenged by the opposite parties before the Settlement Officer, Consolidation who by the judgment and order dated 28.9.1978 allowed the appeal. Being aggrieved by the aforesaid order, the petitioners filed revision which too was dismissed by the revisional court by the judgment and order dated 8.2.1980. Being aggrieved by the aforesaid orders, the petitioners have approached this Court.

4. During the pendency of the petition, the petitioners Raja Ram and Dharam Raj expired and their legal heirs were substituted by the orders of this Court. Learned counsel for the petitioners submits that as no permission for transfer of the share was obtained by Baiju from the Settlement Officer. Consolidation, the sale deed dated 16.7.1974 is null and void. He further submits that the property was mortgaged with the U. P. Co-operative Land Development Bank and as such, the transfer was also prohibited under the provisions of Section 22 of the U. P. Co-operative Land Development Bank Act.

5. Learned counsel for the petitioners has relied upon a decision of this Court in *Ramji Lal Singh v. State of U. P. and others*. 1977 RD 307 and on the strength of the judgment and order passed by this Court, he submits that part of the holding cannot be transferred.

6. Sri Tripathi appearing on behalf of the opposite parties submits that on 16.7.1974 when the sale deed was executed by Baiju who was the recorded tenure holder, permission u/s 4 (1) (c) (U) of the U. P. Consolidation of Holdings Act was not required as at the said time, the said provision was not in the Act and the said provision for permission was incorporated in the U. P. Consolidation of Holdings Act by Act No. 34 of 1974 to which the assent was given on 3.12.1974 by His Excellency the Governor of U. P. He further submits that the provisions of Section 22 of the U. P. Co-operative Land Development Act, 1964 were also not applicable on 16.7.1974 when the sale deed was executed as the said provision was inserted in the Act on 5.10.1978.

7. I have considered the arguments of the learned counsel for the parties and gone through the Impugned orders passed by the courts below and the record.

8. There is no dispute that Baiju was the recorded tenure holder of two Chaks out of which one was transferred on 16.7.1974 in favour of opposite party Nos. 1 to 6 and another Chak was transferred by a separate sale deed dated 16.7.1974 in favour of opposite party Nos. 7 to 9. The provision of Section 5 (1) (c) (ii) of the U. P. Consolidation of Holdings Act, were not applicable at the relevant time, i.e., 16.7.1974 when the sale deed was executed as the said provision was added in the Act by Act No. 34 of 1974 to which the assent was given by His Excellency the Governor of Uttar Pradesh on 3.12.1974. The contention of the learned counsel for the petitioners that the property was mortgaged to U. P. Co-operative Land Development Bank and as such the transfer is bad cannot be accepted as Section 22 of the U. P. Co-operative Land Development Act, 1964 was Inserted on 5.10.1978, i.e., after the execution of the sale deed. The law cited by the

learned counsel for the petitioners in *Ramyi Lal Singh v. State of U. P. and others*, (supra) is also not applicable to the facts of the present case as Baiju was the recorded tenure holder who transferred his share in the holdings in favour of the opposite parties for valuable consideration. There is no illegality in the impugned orders.

9. The writ petition is devoid of merits. It is accordingly dismissed. Interim order if any is discharged.

10. In the circumstances, there will be no order as to costs.