

**(1986) 09 AHC CK 0016**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 888 of 1986

Ram Mahesh and Others

APPELLANT

Vs

Joint Director Consolidation Sultanpur and Others

RESPONDENT

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**Date of Decision :** 09-09-1986

**Acts Referred:**

**Citation :** (1987) RD 217

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

**Bench :** Single Bench

**Advocate :** V.P. Singh, for the Appellant; B.K. Srivastava, for Opposite Parties 3, 4 and 5, for the Respondent

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## **Judgement**

K.N. Misra, J.—This writ petition is directed against the order dated 26th July, 1985 passed by the Joint Director of Consolidation rejecting the revision to be not maintainable by saying that the impugned order passed by the Settlement Officer Consolidation fell in the category of interlocutory order. He further rejected the review application vide order dated 29th August, 1985 by saying that he has got no jurisdiction to review his earlier order.

2. Briefly stated, the facts of the case are that an appeal filed by the opposite parties 3 to 5 against the order passed by the Consolidation Officer was pending in the court of the Settlement Officer Consolidation. It has been averred in the writ petition that the Petitioners Ram Mahesh and others had filed five documents in support of their claim before the Settlement Officer Consolidation in the said appeal. These documents are said to be certified copies of the second settlement, copy of the Khatauni of 3rd settlement, copies of Khatauni of 1356F and 1359F and extract of CH Form 7 relating to the land in dispute. These documents were kept under sealed cover on the prayer made by the Petitioners. It appears that the counsel of opposite parties 3 to 5 had applied for inspection of those documents which were kept in sealed cover. These documents were subsequently found to be missing and so the Petitioners had requested the Settlement Officer Consolidation to lodge a report against the opposite parties for

whom it was said that they had got those documents removed from the file. A report was called from the clerk concerned by the Settlement Officer Consolidation which has been annexed as Annexure No. 2 to the writ petition. Learned Settlement Officer Consolidation instead of lodging the report himself, had directed the Petitioners to lodge a report. Against this order Petitioners had filed revision which was rejected by the Joint Director of Consolidation, vide order dated 26.7.1985 saying that it was an interlocutory order. He also rejected the review petition vide order dated 29.8.1985 saying it to be not maintainable.

3. Having heard the learned Counsel for the parties I find that the Joint Director of Consolidation has ignored the gravity of the matter while rejecting the revision, in such a summary manner. If certain record was found missing from the file, then a detailed inquiry should have been got made fixing the responsibility as to who was responsible for the loss of the relevant documents filed by a party in support of his claim. The Settlement Officer Consolidation also appears to have acted very carelessly in not lodging a report and in not submitting a report to the District Dy. Director of Consolidation in the matter indicating that certain record of his court was tampered with and documents were removed from the file. If documents are lost from the court file, then the responsibility rests upon the officer concerned to proceed - to make investigation in the matter and it cannot be left on the party whose documents have lost to lodge a report and to proceed to find out as to who had removed those documents. The responsibility in such matters rested squarely on the court itself. The Settlement Officer Consolidation thus failed to perform his duty and clearly erred in directing the Petitioner to lodge the report instead of lodging report himself and proceeding to enquire about the loss of the documents. Learned Joint Director of Consolidation in these circumstances should not have rejected the revision merely on the ground that it was directed against an interlocutory order. The Petitioners had informed learned Joint Director of Consolidation regarding loss of the relevant documents from the court file. It was, therefore, his duty to have proceeded to inquire into, the matter fixing responsibility regarding loss of the documents and to have dealt with the matter in all seriousness. He should have further directed the Settlement Officer Consolidation to reconstitute the lost documents. This Should have been got done by the Settlement Officer Consolidation himself but since he has not taken care to do it, then the learned Joint Director of Consolidation should have got it done.

4. In the result this writ petition succeeds and is hereby allowed and the impugned orders dated 26.7.1985 and 29.8.1985 passed by the Joint Director Consolidation are hereby quashed and he is directed to restore the revision and Order an inquiry to be made regarding loss of the documents from the appellate record. He should also proceed to get the lost documents reconstituted according to law. Such appropriate action which may be deemed fit and proper be also taken by the Joint Director of Consolidation or by the District Dy. Director of Consolidation while dealing with the matter regarding loss of documents in question. A report be got lodged regarding loss of documents and inquiry be

ordered to be made expeditiously, besides directing the lost records to be reconstituted at the earliest. No order as to costs.