

(2025) 11 AHC CK 1813
In the Allahabad High Court
Case No : Writ C No. 1003822 Of 2002

Sadhu Saran Chaubey

APPELLANT

Vs

Addl. Commissioner Devi Patan Mandal And 4 Ors

RESPONDENT

Date of Decision : 15-11-2025

Acts Referred:

Indian Penal Code, 1860 — Section 307

Citation : (2025) 11 AHC CK 1813

Hon'ble Judges : Abdul Shahid, J

Bench : Single Bench

Advocate : Dharmendra Singh, Gulam Mustafa

Final Decision : Allowed

Judgement

Irshad Ali, J

1. Heard Sri G.C. Verma, learned Senior Advocate assisted by Sri Abhishek Kumar Pandey and Sri Amitesh Mishra, learned counsel for the petitioner, Sri Shatrughan Chaudhary, learned Additional Chief Standing Counsel for the State-respondent and Sri R.P. Dwivedi, learned counsel for respondent No.5.

2. By means of the present writ petition, the petitioner is challenging the order dated 2.5.2002, passed by the respondent No.1, contained as Annexure-1 to the writ petition.

3. Factual matrix of the case is that in the year 1985, a Will deed was executed in favour of respondent No.5 by the deceased Ram Abhilakh. The same was cancelled by the deceased in the same year. The second Will deed was executed in favour of respondent No.4-Bhagwan Das by the deceased Ram Abhilakh. Third and last Will deed was executed by deceased Ram Abhilak in favour of the petitioner, who died on 19.2.2001. The respondent No.5 Bajrang Bahadur got mutated his name in revenue records by filing mutation application before Tehsildar Payagpur, District Shravasti by concealing the Will deed executed in favour of the petitioner. The Tehsildar passed ex-parte order on the mutation

application.

4. The petitioner filed a declaratory suit under Section 229-B of the U.P. Zamindari Abolition and Land Reforms Act alongwith the interim relief application under Section 229-D of the said Act before the Sub Divisional Officer, Bahraich who passed an interim order on 20.4.2002 to the effect that the land in question will not be transferred to anyone and in the meantime, status quo was directed to be maintained.

5. It is the case of the petitioner that the respondent No.5 without having any locus, filed revision under Section 333 of U.P. Zamindari Abolition and Land Reforms Act against the interlocutory order dated 20.4.2002 before the Additional Commissioner, Devi Patan Mandal, District Gonda who entertained the revision and stayed the operation of the order dated 20.4.2002 passed by the Sub Divisional Officer in declaratory suit vide his order dated 2.5.2002.

6. Submission of learned counsel for the petitioner is that the order passed in the case filed under Section 229-B is an interlocutory order and revision is not maintainable and is wholly without jurisdiction against that order passed by the Sub Divisional Officer. Next submission is that the order is an unreasoned order, therefore, is not maintainable in the eyes of law. In support of his submission, he placed reliance on paragraphs 37, 38 and 39 of a judgment passed in Writ-C No.10523 of 2024 (Mohd Muslim & others Vs. State of U.P. & others).

7. On the other hand, learned counsel for the respondent No.5 submits that against an interim order passed in the revision, writ petition is not maintainable, therefore, the writ petition being misconceived, is liable to be dismissed.

8. After having heard the rival submission of learned counsel for the parties, I perused the material on record.

9. On perusal of the order passed by the Sub Divisional Officer dated 20.4.2002, it is apparent on the face of it that it is an interlocutory order and no final order has been passed on the interim injunction application, therefore, revision against an interlocutory order is not maintainable.

10. On perusal of the order passed by the revisional court, it is apparent on the face of it that it does not contain reason in passing the impugned order. Learned counsel for the petitioner has also placed reliance upon a judgment in the case of Mohd Muslim (Supra), relevant paragraphs are being quoted as under :-

"37. In this view of the matter, the order against which the revision has been entertained and also allowed, cannot be said to be an order relating to a 'suit or proceeding decided'.

38. The condition precedent for the entertainability of a revision under Section 210 of the Revenue Code, having thus not been fulfilled, the submissions raised on behalf of the petitioners with regard to the revision being not entertainable, are held to be sustainable.

39. The order dated 20.01.2024 passed by respondent no.2, Commissioner, Prayagraj Division, Prayagraj in Revision No.1369 of 2022 is, therefore, held to be legally unsustainable, on the point of entertainability of the revision."

11. On its perusal, it is apparent that against an interlocutory order passed in an interim injunction application, revision is not maintainable, therefore, the order appears to be per se illegal and is liable to be set aside. It is also apparent on the face of it that it does not record any reason in passing the impugned order. The argument advanced by learned counsel for the respondent No.5 has no bearing and the writ petition against an order, wholly without jurisdiction, is always maintainable.

12. The order passed on 2.5.2002 is wholly without jurisdiction and the revision was not entertainable in the eyes of law against the interlocutory order.

13. In view of the reasons recorded above, the impugned order dated 2.5.2002 is hereby quashed. The writ petition succeeds and is allowed.

14. No order as to costs.