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**(2014) 03 AHC CK 0131**  
**In the Allahabad High Court**  
**Case No : Writ-B No. 14167 of 2014**

Salekh Chand

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 12-03-2014

**Acts Referred:**

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 9, 9A

**Citation :** (2014) 123 RD 229

**Hon'ble Judges :** Ram Surat Ram (Maurya), J

**Bench :** Single Bench

**Advocate :** Amit Krishan, Advocate for the Appellant; R.P. Singh, Advocate for the Respondent

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## Judgement

Ram Surat Ram (Maurya), J.—Heard Sri Amit Krishan for the petitioner and Sri R.P. Singh for the respondents. The writ petition has been filed against the order of Consolidation Officer dated 30.5.2013, Settlement Officer, Consolidation dated 2.12.2013 and Deputy Director of Consolidation dated 13.1.2014 passed in proceedings u/s 9-A of U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as "the Act").

2. The village in question was placed under consolidation operation sometimes in the year 1990 and a notification u/s 9 had taken place on 25.7.1991. It is alleged on behalf of the respondents that after notification u/s 9, the parties entered into compromise and a written compromise was filed on 28.11.1991 and on the basis of the written compromise, Assistant Consolidation Officer determined the valuation of plot No. 1079 and its sub plots as in CH Form 2-A some of the sub plots were recorded as grove of guava. In the first chak of the petitioner plot No. 1079/1, area 2-1-0 was allotted. Thereafter, plot Nos. 1079/1, area 1-17-6 bigha, 1079/2 area 4-10-0 bigha, 1079/4 area 0-7-16 bigha and 1079/5, area 0-4-0 bigha was allotted in the second chak of the petitioner. The consolidation proceeding in the village has become over and thereafter the petitioner filed a highly time barred objection u/s 9 of the Act on 31.5.2010 for deleting valuation

of plot No. 1079/2 and correcting the sub division of plot No. 1079/1 and 1079/2. It has been stated by the petitioner that plot No. 1079/3, area 1-16-0 bigha, 1079/4, area 1-0-0 bigha, 1079/1, area 1-0-0 bigha, 1079/5, area 0-4-0 bigha and plot No. 1079/2, area 4-1-0 bigha has been shown vacant land although there was grove on these plots and further alleged sub division of plot 1079/1, 1079/2 has been incorrectly recorded and its valuation has been determined at the rate of 70 paisa. On this objection a report was called for from the Assistant Consolidation Officer, who submitted his report dated 21.1.2013 showing that notification in the village u/s 9 of the Act took place on 25.7.1991. He has also shown in the report the present position of the land in dispute. The matter was examined by the Consolidation Officer, who by order dated 30.5.2013 held that as old demarcation boundary of sub plots of plot No. 1079 is not found on the spot as such it is not possible to correct the various sub divisions of plot No. 1079 and in case the objection of the petitioner is entertained then the chaks of the various persons will be affected which is not possible after such a delay. The petitioner as well as one Brahmchandra filed appeals from the aforesaid order. Both the appeals were consolidated and decided by order of Settlement Officer, Consolidation dated 2.12.2013. The Settlement Officer, Consolidation held that as the land in dispute has already been partitioned between the co-sharers on the basis of compromise dated 28.11.1991 as such it would not be appropriate to reopen the order passed on the basis of compromise after such a long period. The petitioner filed revision from the aforesaid order, which has been dismissed by order dated 31.1.2014. Hence, this writ petition has been filed.

3. The Counsel for the petitioner submits that even in CH Form 2-A the land in dispute i.e. plot Nos. 1079/2 and 1079/4 was recorded as grove of guava and therefore its valuation has been illegally determined and has been allotted in the chak of the petitioner. Since the land in dispute was the original holdings of the petitioner and the chak was allotted to him as such a time barred objection has been filed. As mentioned in the order of the Consolidation Officer the valuation of the grove land as well as the abadi land has not been determined by the order of the competent authority, as such, the entire proceeding relating to determination of valuation as well as allotment of this land in the chak of the petitioner was illegal.

4. I have considered the arguments of the Counsel for the petitioner and examined the records. The objection of the petitioner is confined to two plots i.e. plot Nos. 1079/1 and 1079/2 for deleting entry of grove on plot No. 1079/1 and deleting determination of valuation of plot No. 1079/2.

5. So far as the plot No. 1079/1, is concerned, in CH Form 2-A it was recorded as vacant agricultural land as such it was allotted in the chak of the petitioner. After expiry of such a long period of more than 20 years grove of guava might have planted after allotment of the chaks therefore at this moment it is not possible to hold that this plot was grove of guava in the year 1990 also.

6. So far as plot No. 1079/2, is concerned, in CH Form 2-A this plot was found

that grove of guava but as stated above all the co-sharers agreed for determining its valuation accordingly on the basis of compromise the valuation was determined. The grove of guava, if becomes old then used to become unproductive. In such circumstance, co-sharers had agreed for determining its valuation and thereafter it was allotted in the chak of the petitioner then at the most other co-sharers in whose chaks grove was not allotted may be aggrieved and not the petitioner as he is benefited with the grove as well as land also. The order has been passed on the basis of the compromise in the year 1991 and consolidation authorities have rightly did not entertain fresh objection of the petitioner in this respect filed in the year 2010. There is no illegality in the impugned orders. The writ petition has no merit, it is dismissed.