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**(1999) 07 AHC CK 0063**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 28243 of 1999**

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|------------------------------------------|----|------------|
| Sazid and others                         | Vs | APPELLANT  |
| Commissioner of Consolidation and others |    | RESPONDENT |

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**Date of Decision :** 16-07-1999

**Acts Referred:**

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 4, 4(1), 4(2), 4A, 5

**Citation :** (1999) 4 AWC 2788 : (1999) AWC 2788 : (1999) RD 468

**Hon'ble Judges :** Shitla Prasad Srivastava, J

**Bench :** Single Bench

**Advocate :** R.N. Sharma, for the Appellant;

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## Judgement

Shitla Prasad Srivastava, J.—The petitioners have filed the present writ petition for Issue of a writ of mandamus commanding the respondents to hold fresh consolidation proceedings in accordance with law in Village Keserva Tehsil Budhna district Muzaffarnagar and a further prayer has been made for issue of a writ of mandamus commanding the respondent No. 1 to decide the representation dated 10.5.1999 filed by the petitioners within a month and during the tendency of the representation, the respondent Nos. 2 to 4 and other consolidation authorities be directed not to dispossess the petitioners from their original holding.

2. The first ground taken by the petitioners is that their area has been illegally reduced by the consolidator and other consolidation authorities during survey proceedings in the village. The second ground which has been taken by them is that the Assistant Consolidation Officer as well as other concerned consolidation authorities have illegally allotted uran chaks to the petitioners depriving their original holding and the chaks have been allotted to them at a long distance from the village abadi. The third ground taken by the petitioners is that the consolidation authorities have not provided proper Chak Road and channels of irrigation facilities and as such, the petitioners as well as 80% tenureholders of the village are unable to reach their chaks easily and cannot irrigate their chaks.

The other ground taken by the petitioner Is that the consolidation authorities respondent Nos. 3 and 4 and Assistant Consolidation Officer concerned have illegally assessed the less valuation of the original plots of the petitioners and higher valuation of big tenureholders of the village whose holdings is very inferior by which the petitioners as well as other tenureholder of the village have suffered double irreparable loss and injury.

3. In the Consolidation of Holdings Act. 1953 (hereinafter referred to as the Act), there is provision in Section 4 to issue declaration and notification regarding consolidation. The relevant Section 4 of the Act is quoted below :

"4. Declaration and notification regarding consolidation.--(1) (a) The State Government may, where it is of opinion that a district or part thereof may be brought under consolidation operation, make a declaration to that effect in the Gazette, whereupon it shall become lawful for any officer or authority who may be empowered in this behalf by the District Deputy Director of Consolidation-

(i) to enter upon and survey, in connection with rectangulation or otherwise and to take levels of any land in such area ;

(ii) (to fix pillars in connection with rectangulation, and) ;

(iii) to do all acts necessary to ascertain the suitability of the area for consolidation operations.

(b) The District Deputy Director of Consolidation shall cause public notice of the declaration Issued under Clause (a) to be given at convenient places in the said district or part thereof.

(2) (a) When the State Government decides to start consolidation operations, either in an area covered by a declaration issued under sub-section (1) or in any other area, it may Issue a notification to this effect.

(b) Every such notification shall be published in the Gazette and in a daily newspaper having circulation in the said area and shall also be published in each unit in the said area in such manner as may be considered appropriate."

4. There was an Insertion of a new Section 4A. By this section. where the State Government Is of opinion that in the case of a district or part thereof in respect of which a notification has already been issued u/s 52 of the Act, it is expedient In the public interest so to do. It may make a declaration by notification in the Gazette that such district or part thereof may again be brought under consolidation operation. The relevant Section 4A of the Act is quoted below :

"4A. (1) There was an insertion of a new Section 4A. By this section where the State Government is of opinion that in the case of a district or part thereof in respect of which a notification has already been issued u/s 52 of the Act, it is expedient in the public Interest so to do, it may make a declaration by notification in the Gazette that such district or part thereof may again be brought under consolidation operation :

Provided that no such declaration shall be issued within twenty years from the date of the notification referred to in the said section. but in special circumstances. the State Government may. In public interest, issue such declaration after ten years from the said date.

(3) The provisions of this Act shall mutatis mutandis apply to a notification u/s 4."

5. The effect of notification made u/s 4 (2) of the Act is mentioned in Section 5 of the Act. which is also quoted hereinbelow ;

"5. Effect of (notification u/s 4 (2) :

(1) Upon the publication of the notification (under subsection (2) of Section 4) in the Official Gazette, the consequences, as hereinafter set forth, shall, subject to the provisions of this Act. from the date specified thereunder till the publication of notification u/s 52 or sub-section 1 (1) of Section 6, as the case may be. ensue in the area to which the notification u/s 4 (2) relates, namely--

(a) the district or part thereof, as the case may be, shall be deemed to be under consolidation operations and the duty of maintaining the record-of-rights and preparing the village map, the field book and the annual register of each shall be performed by the District Deputy Director of Consolidation, who shall maintain or prepare them, as the case may be, prescribed :

(b) (\* \* \* \*) (c) notwithstanding anything contained in the U. P. Zamindari Abolition and Land Reforms Act, 1950, no tenureholder. except with the permission in writing of the Settlement Officer, Consolidation. previously obtained shall-

(i) use his holding or any part thereof for purposes not connected with agriculture, horticulture or animal husbandry Including pisciculture and poultry farming ; or

(ii)(\* \* \* \* \*) Provided that a tenureholder may continue to use his holding, or any part thereof, for any purpose for which it was in use prior to the date specified in the notification issued (under sub-section (2) of Section 4).

(2) Upon the said publication of the notification under sub section (2) of Section 4, the following further consequences shall ensue in the area to which the notification relates namely-

(a) every proceeding for the correction of record and every suit and proceedings in respect of declaration of right or interest in any land lying in the area, or for declaration and adjudication or any other right in regard to which proceedings can or ought to be taken under this Act. pending before any Court or authority whether of the first instance or of appeal, reference or revision, shall, on an order being passed in that behalf by the Court or authority before whom such suit or proceedings is pending stand abated :

Provided that no such order shall be passed without giving to the parties notice

by post or in any other manner and after giving them an opportunity of being heard :

Provided further that on the issue of a notification under subsection (1) of Section 6 in respect of the said area or part thereof, every such order in relation to the land lying in such area or part as the case may be. shall stand vacated :

(b) such abatement shall be without prejudice to the rights of the person affected to agitate the right or interest in dispute in the said suits or proceedings before the appropriate consolidation authorities under and in accordance with the provisions of this Act and the rules made thereunder."

6. Section 6 of the Act deals with the cancellation of notification u/s 4. Section 6 is also quoted below :

"6. Cancellation of notification u/s 4.--(1) It shall be lawful for the State Government at any time to cancel the (notification) made u/s 4 in respect of the whole or any part of the area specified therein.

(2) Where a (notification) has been cancelled in respect of any unit under subsection (1), such area shall, subject to the final orders relating to the correction of land records, if any, passed on or before the date of such cancellation, ceased to be under consolidation operations with effect from the date of the cancellation."

7. The aforesaid provisions of the Act relate to the start of the consolidation proceedings and its withdrawal by the notification by the State Government. I think this Court cannot issue a writ of mandamus to start the fresh proceedings. The Consolidation of Holdings Act is self-contained Code. The petitioner has an alternative remedy to approach the concerned authorities, as provided u/s 6 of the Act for cancelling the earlier notification issued. It Is the State Government that can decide that any such notification can be cancelled or a fresh notification can be issued or not.

8. Petitioners have no remedy before this Court, therefore, the writ petition is accordingly dismissed.