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**(2014) 01 AHC CK 0193**  
**In the Allahabad High Court**  
**Case No : Writ-B No. 34666 of 2007**

Seeta Ram

APPELLANT

Vs

A.D.M./D.D.C. and Others

RESPONDENT

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**Date of Decision :** 07-01-2014

**Acts Referred:**

**Citation :** (2014) 122 RD 467

**Hon'ble Judges :** Anjani Kumar Mishra, J

**Bench :** Single Bench

**Advocate :** Anand Kumar Srivastava, Advocate for the Appellant; Ganga Prasad and K.C. Kishan Srivastava, Advocate for the Respondent

**Final Decision :** Disposed Off

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## Judgement

Anjani Kumar Mishra, J.—Heard Sri Anand Kumar Srivastava, learned Counsel for the petitioner and Sri K.C. Kishan Srivastava, who represents the contesting respondent Nos. 3 to 5. It is the case of the petitioner that in proceedings for allotment of chak an order was passed by the Consolidation Officer on 31.7.2002.

2. Aggrieved by the same, the petitioner preferred an appeal which came to be dismissed by an ex parte order dated 31.7.2002. The petitioner preferred a restoration application which was allowed by the order dated 9.1.2004. Against the order allowing the restoration application, the opposite party preferred revision No. 39 before the Deputy Director of Consolidation. It is stated that the order of the Deputy Director of Consolidation is also ex parte and it is against this order that the instant writ petition has been filed.

3. The petitioner has submitted that the order impugned is ex parte and that the revision itself was not maintainable having been filed against an interlocutory order and the opposite party has committed manifest, illegality in entertaining and allowing the same.

4. On a specific query by the Court, the Counsel for the petitioner has conceded that the issue whether the order impugned is ex parte or not cannot be raised

before this Court on the first instance and has therefore made a statement he was not pressing the said point.

5. In reply to the contention that the revision itself was not maintainable, learned Counsel for the respondents have invited my attention to the order impugned in the revision.

6. From a perusal of this order of the Settlement Officer Consolidation, it is apparent that it has been passed without any notice or information to the respondents. While allowing the said order, not only has the restoration application been allowed but the appeal itself has been decided on merits. There is a specific recital in the order that only the applicants who had filed the restoration application were heard by the Settlement Officer Consolidation.

7. Thus it is clear that the order impugned was a final order and not an interlocutory order and therefore the contention that the revision was not maintainable is not tenable. The order finally disposed of the restoration application and was final to that extent. The contention of the petitioner in this regard is repelled, and it is held that the impugned order merits no interference.

8. However, looking into the facts and circumstances of the case the order impugned is modified as below.

9. It is provided that the parties shall appear before the Settlement Officer Consolidation on 16th January, 2014, who shall hear the parties on merits and pass a fresh order within a period of two months from the date of production of certified copy of this order. With the aforesaid observations, the writ petition is disposed of.