

**(2010) 07 UK CK 0093**  
**In the Uttarakhand High Court**

Shakur Khan and Others

APPELLANT

Vs

Noor Ilahi and Others

RESPONDENT

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**Date of Decision :** 05-07-2010

**Acts Referred:**

**Citation :** (2010) 07 UK CK 0093

**Hon'ble Judges :** Tarun Agarwala, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Tarun Agarwala, J.—Heard Shri Arvind Kumar Sharma, the learned Counsel for the petitioners and Shri Lok Pal Singh, the learned Counsel for the respondents.

2. It transpires that the Consolidation Officer passed an order dated 31st October, 1998. The petitioners moved a restoration application dated 15/10/2004 after a lapse of six years which was allowed by an order dated 18th March, 2005 on the ground that the petitioners were not heard when the order dated 31st October, 1998 was passed. The respondent No. 1, being aggrieved by the said order, filed a review application before the Deputy Director of Consolidation which was allowed by an order dated 29th April, 2010 and the order of the Consolidation Officer dated 18th March, 2005 was set aside. The petitioner, being aggrieved by the said order, has filed the present writ petition.

3. Learned Counsel for the petitioners submitted that the order of the Consolidation Officer dated 31st October, 1998 was an ex-parte order and that the petitioners were not heard when the said order was passed and, consequently, the Consolidation Officer was justified in recalling its earlier order by the order dated 18th March, 2005. The learned Counsel submitted that the revisional authority had committed a manifest error of law in allowing the revision of the opposite parties who were heard before the Consolidation Officer. In paragraph 7 of the writ petition, the learned Counsel for the petitioner had stated that the order dated 31st October, 1998 was passed without issuance of

any notice to them and without giving any opportunity of hearing. This fact has, unfortunately, sworn on the basis of legal advice. Such paragraph cannot be sworn on legal advice and has to be made on the basis of the personal knowledge or on the basis of the record. Since, it has not been made on the basis of personal knowledge, the impugned order passed by the revisional authority indicates that on the basis of the record of the Consolidation Officer, the revisional authority found that objections were filed by the petitioners before the Consolidation Officer and that the impugned order was passed after considering the objection and after hearing the petitioners. No allegations has been made by the petitioners that this finding of the revisional authority is perverse.

4. In view of the aforesaid, this Court is of the opinion that the impugned order passed by the revisional authority does not suffer from any manifest error of law. The writ petition fails and is dismissed summarily.