

**(1979) 12 AHC CK 0047**  
**In the Allahabad High Court**  
**Case No : Civil Rev. No. 3300 of 1977**

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|---------------------------|----|------------|
| Smt. Premvati and Another | Vs | APPELLANT  |
| Harnam Singh              |    | RESPONDENT |

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**Date of Decision :** 20-12-1979

**Acts Referred:**

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 27, 27(1), 48, 49, 52

**Citation :** (1980) AWC 96

**Hon'ble Judges :** Satish Chandra, C.J

**Bench :** Single Bench

**Advocate :** Bhuneshwar Prasad, for the Appellant; V.D. Ojha, for the Respondent

**Final Decision :** Allowed

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## Judgement

Satish Chandra, C.J.—In a suit for cancellation and adjudging void the order of the Deputy Director of Consolidation, dated June 5, 1975 pasted in a revision u/s 48 of the U.P. Consolidation of Holdings Act, issue No. 2 was whether the suit is barred by Section 49 of the Consolidation Act. The trial court answered this issue by holding that the suit is so barred. Aggrieved, the Plaintiff has come to this Court in revision.

2. The Plaintiff had come to court on the allegation that fraud was played and the order of the Deputy Director of Consolidation was, as such, void. Section 49 cannot apply to such situation. It provides that declaration and adjudication of rights in respect of land shall be done in accordance with the provisions of this Act and no Civil or Revenue Court shall entertain any suit or proceedings with respect to rights in such land. The present suit is not for declaration of rights in land. It is for declaration of the validity of the order passed by the Deputy Director of Consolidation. The second part of Section 49 relates to any other matter in respect of which any proceeding could or ought to have been taken under this Act. I find no provision in the Consolidation Act which permits re-adjudication of the Deputy Director of Consolidation's order. No power to review has been conferred on the Deputy Director of Consolidation. Section 27 of the

Act, after its amendment by U.P. Act No. XII of 1965, provides that all entries in the record of rights prepared in accordance with the provisions of Sub-section (1) shall be presumed to be true until the contrary is proved. The distinction is clear. After 1965, the entries made in consequence of the Deputy Director of Consolidation's order are not final and conclusive. They are liable to be disapproved. This hence does not prevent institution of a suit in regular courts to disapprove the entries. Section 27 itself contemplates that after the issuance of the notification u/s 52, the Collector shall do the work of maintaining the record of " rights. Thus, there is no provision in the Act debarring such a suit.

3. The revision succeeds and is allowed. The impugned order is set aside and it is directed that issue no, 2 will be decided by holding that the court had jurisdiction to decide the suit. The Petitioners will be entitled to costs.