

---

**(2011) 07 AHC CK 0256**  
**In the Allahabad High Court**  
**Case No : C.M.P.W. No. 33816 of 2000**

Smt. Tairunnisha and others

APPELLANT

Vs

First Additional District Judge, Basti and others

RESPONDENT

---

**Date of Decision :** 04-07-2011

**Acts Referred:**

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

**Citation :** (2011) 144 RD 307

**Hon'ble Judges :** S.U. Khan, J

**Bench :** Single Bench

**Final Decision :** Dismissed

---

## Judgement

S.U. Khan, J.—In spite of sufficient service no one appeared for contesting respondents i.e. respondents No. 2 to 8 hence only the arguments of Learned Counsel for the petitioners were heard.

2. This writ petition has been filed by substituted plaintiffs of O.S. No. 306 of 1981, which was instituted by their father Sri Sadique Ali who died during pendency of the suit and was substituted by the petitioners. The relief claimed in the suit was for cancellation of three sale-deeds of agricultural lands dated 31.3.1981, 9.6.1981 and 30.10.1981. The suit was decreed on 27.10.1988 by Munsif Basti. Against the said judgment and decree, defendant respondent No. 2, Sri Mohabbat Ali filed Civil Appeal No. 208 of 1988. During pendency of appeal before First A.D.J. Basti, an application was filed by the appellant-respondent No. 2 praying for abating the appeal u/s 5 of U.P. Consolidation of Holdings Act as a notification u/s 4(2) of the said Act notifying the start of consolidation proceedings had been issued. The said application was opposed by the petitioners. First A.D.J. Basti allowed the application through order dated 1.5.2000. The said order has been challenged through this writ petition.

3. The effect of abatement u/s 5 of U.P.C.H. Act is that the controversy can be raised afresh before Consolidation Courts. Whether after the impugned order

some objections were filed by any party before the Consolidation Courts or not is not clear. On 28.2.2011 an order was passed (on the order-sheet) directing the Learned Counsel for the petitioners to verify the said fact. However he could not verify as to whether any objection had been filed or not?

4. In my opinion the impugned order is perfectly in accordance with law. The point is concluded by a Full Bench authority of this Court in Ram Padarath v. II A.D.J. Sultanpur. 1989 RD 21 . In Para-20 of the said authority, it has been held that the jurisdiction of consolidation authorities is wider than civil and revenue Courts. Same thing has been held in Para-22 of it. In Para-26, it has been held that Division Bench decision in Dr. Ajodhya Prasad Vs. Gangotri Prasad, holding that in such matters Consolidation Courts alone had got jurisdiction was rightly decided but it was confined only to the jurisdiction of Consolidation Courts and could not be applied to the jurisdiction of revenue Courts. To that extent i.e. that revenue Court has got jurisdiction and not civil Court, the said authority was overruled.

5. Learned Counsel for the petitioner has cited an authority of Supreme Court in Ram Shakal Singh v. Munako Devi, AIR 1998 SC 277 : 1997 ACJ 1154 (SC) That authority related to Bihar Consolidation of Holdings Act. The Full Bench of Ram Padarath has been approved by the Supreme Court also vide Sri Ram v. 1st Additional District Judge. 2001 (92) RD 241 (SC).

Accordingly, writ petition is devoid of merit hence dismissed.