



Neutral Citation No. -
2026:AHC-LKO:30795
Reserved on: 23.03.2026
Delivered on: 29.04.2026

[A.F.R.]

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1002103 of 2000

Smt.Gyanwati

.....Petitioner(s)

Versus

Additional Commissioner Judicial Faizabad

.....Respondent(s)

Counsel for Petitioner(s)	:	Narendra Gupta, I.m.pandey, K.k.dubey
Counsel for Respondent(s)	:	C.S.C., Gopal Krishna Pathak, R.n.gupta

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Shri I.M. Pandey, learned counsel for the petitioner, learned Standing Counsel for the respondents-State and Shri Piyush Pathak, learned counsel for the private respondents.
2. By means of the present writ petition, the petitioner has prayed for issuance of a writ in the nature of Certiorari, quashing proceedings of revision and order dated 5.6.2000 as contained in Annexure Nos.1 and 2 passed by Additional Commissioner (Judicial), Faizabad in Revision No.1531 under Section 219 of the U.P. Land Revenue Act.
3. Factual matrix of the case is that the petitioner moved an application under Section 28 of the U.P. Land Revenue Act before the Collector, Sultanpur which was heard and disposed off by Additional Collector (Finance and Revenue), District Sultanpur on 2.3.1995 and it was allowed and the correction of plots number was directed to be done in place of 2506 in village map and Plot No.2507 was renumbered as 2506. The mistake was occurred on the face of the record as such the same was directed to be corrected.

As a matter of fact, opposite party no.3 Swami Dayal was neither a party nor he has got any interest in the matter nor *locus standi*, therefore he has got nothing to do with the case. On account of entry

after a lapse of time of about 5 years, he preferred a revision before Additional Commissioner under Section 219, Faizabad Division, Faizabad against the order dated 2.3.1995 with an application for condonation of delay under Section 5 of the Limitation Act without explaining the inordinate delay in filing the revision and against this the petitioner filed an objection in writing but the same was not considered and revision was held maintainable.

Swami Dayal (opposite party no.3) filed revision at his own accord and on behalf of Gaon Sabha or State Government but in individual capacity, but the same was entertained and interim stay order was also granted and delay was condoned.

The application moved by the petitioner for exchange under Section 161 of U.P. Zamindari Abolition and Land Reforms Act was allowed by Deputy Collector, Musafirkhana, District Sultanpur on 12.6.1998 against which opposite party no.3 moved an application for setting aside so called ex parte order dated 12.6.1998 and the same was rejected on 21.12.1999.

Against the order dated 21.12.1999 and 12.6.1998, the opposite party no.3 preferred a revision with an application under Section 5 of the Limitation Act praying therein for condonation of delay, the same was condoned and the revision was held maintainable and granted interim stay order.

Against the order dated 5.6.2000 passed in revision under Section 333 of U.P.Z.A.& L.R. Act preferred by the opposite party no.3 in exchange matter by the Additional Commissioner, Faizabad Division, the petitioner preferred a writ petition no.1702 of 2000 which was admitted and interim stay orders were granted.

The Deputy Collector decided the application under Section 28 of the U.P. Land Revenue Act after obtaining the report from Tehsildar which fully justified the order of the Deputy Collector allowing the application of the petitioner moved under Section 28 of the U.P. Land Revenue Act.

4. Learned counsel for the petitioner submitted that the Additional Commissioner, Faizabad Division has acted beyond his jurisdiction in holding that the revision filed by the opposite party no.3 under Section 219 of U.P. Land Revenue Act is maintainable and there is sufficient ground for condonation of delay and condoned the delay in ex parte manner ignoring the objections of the petitioner.

5. Learned counsel for the petitioner next submitted that accepting the revision of the opposite party no.3 and granting interim relief after

long interval of the order passed by the Deputy Collector without accepting the delay is itself sufficient ground for rejection of the revision and impugned orders as contained in Annexure nos.1 and 2 are perverse in law and fact both.

6. Learned counsel for the petitioner next submitted that non-taking of advise by the opposite party no.3 for a long time cannot be a ground for condonation of delay or an excuse within the meaning of Section 5 of the Limitation Act.

7. Learned counsel for the petitioner next submitted that order of the Deputy Collector allowing the correction of Map cannot be assailed in any way as in the map the error was apparent on the face of the record.

8. In support of his submissions, learned counsel for the petitioner placed upon judgment rendered in the case of **Bachchu Bhai Tripathi v. Board of Revenue, U.P. at Allahabad and others** reported in **Neutral Citation No.-2005:AHC:2226**.

9. Per contra, learned counsel for the respondents submitted that the impugned order passed by the respondents does not suffer from infirmity or illegality and is just and valid order.

10. Learned counsel for the respondents also placed reliance upon the following judgments:

"(i) Jawahar Lal Tiwari v. Saheb Lal and another (Reference No.220 of 1974-75 decided on April 19, 1979)

(ii) Smt. Phoolmati and others v. Assistant Director of Consolidation, Deoria and others (Civil Misc. Writ Petition No.Nil of 1988, decided on the 3rd November, 1989)

(iii) Smt. Leung @ Laungshri v. Deputy Director of Consolidation, Moradabad and others (Civil Misc. Petition No. Nil of 1989 decided on 28th November, 1989)

(iv) Dharam Singh v. Ravindra Singh and others reported in 2011 (113) RD 154"

11. Having heard the rival submissions of learned counsel for the parties, I perused the material and the case-law cited by the learned counsel for the parties.

12. To resolve the controversy involved in the present writ petition, operative portion of the judgment rendered in the case of **Bachchu Bai Tripathi (supra)** is extracted here-in-below:

"In view of the aforesaid this Court is of the view that on both counts i.e. on merits of exchange and on locus of petitioner writ

petition is to fail. Exchange has not been found to be erroneous in any manner as no violation of any of the criteria or guidelines as provided in Section 161 of the U.P.Z.A. & L.R. Act has been either proved or has been pointed out. Similarly petitioner having not complained about inaction on the part of Gaon Sabha, before Collector/ Commissioner who are custodian of Gaon Sabha property and there being unanimous resolution of Gaon Sabha in favour of exchange and report of Tehsildar, taking up the matter, only by the petitioner, not by any body else of the village appears to be with some motive in the name of public loss and thus no relief on this count also can be allowed."

13. Learned counsel for the respondents also relied upon the several judgments, operative portion of which is extracted here-in-below:

Jawahar Lal Tiwari (supra):

5. *The learned Additional Com-Jawahar Lal Tiwari was not a party to the proceedings and had no locus stand to file a revision application, as he was merely an informant. This view of the learned Additional Commissioner is not sound. Section 333 of the U.P. 2. no and L.R. Act reads as follows:*

"Sec. 333. Power of Board to call for name. The Board may call for the record of any suit or proceeding decided by any subordinate court in which no appeal lies, or where an appeal lies but has not been preferred, and if such subordinate court appears-

(a) to have exercised a jurisdiction not vacated in it by law; or

(b) to have failed to exercise a jurisdiction so vested; or

(c) to have acted in the exercise of jurisdiction illegally or with material irregularity;

the Board may pass such order in the case as it thinks fit."

6. *The power of revision is conferred under Section 333. This section does not lay down that a revision shall be filed by a party to the case. In fact it does not state at all that any party shall file a revision. On the other hand, it is the power of the Board of Revenue to call for the record of any suit or proceeding decided by any subordinate court and thereafter to pass a suitable order. Hence, the Board of Revenue cannot refuse to entertain a revision only on a plea that it has been filed by a person who is an informant and not a party to the proceedings. The material points which the Board of Revenue has to consider in a revision are, whether a sub-ordinate court has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in the exercise of jurisdiction illegally or with*

material irregularity. Now, the present proceedings under Section 122-B were started on the report of the Supervisor Kanungo dated January 20, 1972. The Supervisor Kanungo is a responsible field official of the Revenue Department and his enquiry report cannot be lightly brushed aside. He has clearly stated in his report that Saheb Lal had encroached on the public path-way. There was nothing in his report to suggest that the encroachment had taken place before May 24, 1971. Even in the detailed order dated August 8, 1972 passed by the learned Tahsildar, there is nothing to suggest that the encroachment had taken place prior to this date. Once the learned Tahsildar has passed the final order on August 8, 1972. in proceedings under Section 122-B. the prior remedy open to the aggrieved party (Saheb Lal) was to come in revision before the Board of Revenue. It was a misuse of jurisdiction by the learned Tahsildar to review his own earlier order on October 28, 1972, setting aside the previous order. The power of review can be exercised only when there is an error apparent on the face of the record or for some other sufficient reason. There is no error apparent on the face of the record in the earlier order of the Tahsildar. There is nothing on the record to show that the encroachment took place before May 24, 1971. The impugned order of the learned Tahsildar is thus without jurisdiction and cannot be maintained.

Smt. Phoolmati (supra):

4. As regards reduction of the valuation of the petitioners plot, it would be open to the petitioners to agitate this point before the revisional court.

5. It is well known by now that any order passed against a party without hearing him is bad in law and cannot be sustained. Therefore if the contentions raised on behalf of the petitioners are correct, the impugned order would be recalled by the revisional court and the revisional court shall decide the claims of the petitioners strictly in accordance with law. It is also made clear that if the petitioners approach, the revisional court hereafter, the revisional court shall not indulge into any technicality and treat the application filed by the petitioners as a miscellaneous application and afford an opportunity to the petitioners if they were not heard earlier.

Smt. Leung @ Laungshri (supra):

This petition under Article 226 of the Constitution of India is directed against the order dated 9-6-89 granting interim stay in the revision filed before the Dy. Director of Consolidation.

2. Heard the learned counsel for the petitioner. Against the order granting interim stay the writ petition is not maintainable on the

facts of the case. However, under the facts and circumstances of the case it appears just that the revision before the Dy. Director of Consolidation, Moradabad must be decided within two months..

3. *The Dy. Director of Consolidation of Moradabad, is directed to decide the revision positively by 31-1-1990.*

4. *With these directions the petition is dismissed summarily.*

Dharam Singh (Supra):

A party has a right to raise such objection before the Trial Court in order to protect his interest. But once such objections are being decided the party has to be cautious in approaching the higher forum, especially in a writ jurisdiction. The petitions filed under the supervisory writ jurisdiction, has to be sparingly used and cannot be made a forum to approach the Writ Court on a drop of a hat. In the present case, the Court finds that the petitioner is raising all sorts of objections before the Trial Court, for which, he has every right to do so, in order to protect his interest but, by taking such objection before a higher forum, the Court finds that the petitioner, namely, Dharam Singh is misusing the process of the Court. A writ jurisdiction cannot be used as a tool to delay the proceedings. The Court finds that election petition was filed in the year 2008. Two years have nearly elapsed. The term of the elected member is five years and the Court finds that a concerted effort is being made by the elected candidate to stall the proceedings and prolong the litigation. Such tactics adopted by the returned candidate which the Court can see clearly from the order sheet is deprecated. In the light of the aforesaid and in the facts and circumstances of the case, the Court finds that exemplary cost needs to be imposed upon the petitioner Dharam Singh for raising frivolous issues before this Court and in the circumstances of the case, the Court imposes a cost of Rs. 25,000/- which shall be deposited by the petitioner before the Trial Court within two weeks from today. The amount so deposited can be withdrawn by the plaintiff Ravindra Singh without furnishing any security.

14. I have examined the material available on record in the light of the case-laws reported by learned counsel for the parties.

15. On its examination, it is found that it is well settled that although the Court has discretion to condone delay under Section 5 of the Limitation Act, such discretion must be exercised judiciously and upon sufficient cause being shown.

In the present case, the delay is inordinate, extending to about five years and the impugned order does not disclose any cogent or convincing reasons justifying such delay, therefore the exercise of discretion appears to be arbitrary and unsustainable in law.

16. The submission of the respondents based on *Jawahar Lal Tiwari (supra)* that a revision can be entertained even at the instance of an informant cannot be accepted in absolute terms. The revisional power, though wide, must be exercised in cases involving jurisdictional error, or where public interest is demonstrably involved.

In the present case, respondent no. 3 was neither a party to the original proceedings nor has any direct legal interest been established. Thus, the Revisional Authority failed to examine the maintainability of the revision at the instance of respondent no. 3, rendering the order legally infirm.

17. Moreover, it is true that ordinarily writ jurisdiction is not exercised against interlocutory or interim orders, as held in **Smt. Leung (supra)**. However, an exception arises where the order suffers from jurisdictional error, or there is manifest illegality or abuse of process.

In the present case, entertaining a highly belated revision without proper reasons, and doing so at the instance of a person lacking locus, constitutes a clear jurisdictional error, warranting interference.

18. Therefore, in view of the aforesaid discussion, this Court is of the considered opinion that the impugned order dated 05.06.2000 suffers from non-application of mind and the delay has been condoned in a mechanical manner. Moreover, the issue of *locus standi* has not been properly considered.

19. Accordingly, the writ petition succeeds and is **allowed**. The impugned order dated 05.06.2000 passed by the Additional Commissioner (Judicial), Faizabad Division, Faizabad is hereby quashed.

(Irshad Ali,J.)

April 29, 2026

GK Sinha