

AFR



2026:AHC:69836

Reserved :- March 25, 2026

Delivered :- April 02, 2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 12565 of 1982

D.B.Upadhyaya

.....Petitioner(s)

Versus

D.D.C. and others

.....Respondent(s)

Counsel for Petitioner(s) : A K Rai, R.n.singh, S.n.singh,
Vishnu Singh
Counsel for Respondent(s) : Chandrajeet Yadav, S.C.,
S.l.yadav, Upendra Nath Yadav

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Present writ petition, pending before this Court for last four decades, is arising out of objections filed in consolidation proceedings u/s 9A(2) of U.P. Consolidation of Holdings Act, 1953 (for short "U.P.C.H. Act").

2. Contesting respondents have filed objections in regard to plot nos. 1100, 4643, 1072, 3275, 883 in village Haraiya, District Azamgarh. Undisputedly, said plots were recorded in basic year in the name of Radhey Kishun Upadhyay and Shridhar Upadhyay (predecessors of present petitioner).

3. Basis of objections filed by contesting respondent-4 were that he was recorded over land in suit for substantial long time and therefore by virtue of law, he become *adhivasi* and *sirdar* being recorded in 1956-F and 1959-F, whereas petitioner has opposed said objections on substantial grounds that he is successor of Radhey Kishun Upadhyay and Shridhar Upadhyay, the original tenure holder and name of contesting respondents was recorded only as a '*sikmi tenant*' with a note *Batai Nisfi* as well as that said entries were later on discontinued also and accordingly, entries were disputed being not genuine.

4. The Consolidation Officer vide a judgment dated 23.01.1971 rejected the objections filed by contesting respondent-4 and basis year entries which were in favour of Radhey Kishun Upadhyay and Shridhar Upadhyay were directed to be continued. For reference, relevant part of judgment of Consolidation Officer is quoted below :-

"In the Khata no. 188 and 73 Kharbhan has stated that he has been in possession of the five disputed plots for before the abolition of zamindari and that he filed a suit u/s 229B ZA Act which was decreed in his favour of copy of the judgment of the learned J.O. is on file, the case was decided after the village was brought under consolidation scheme as the judgment is dated 20.1.69 whereas notification u/s 41 was made in Aug.68. This judgment and the decree therefore is of no. **This case is to be decided on merits. Plot no. 3275/-360 is recorded in the name of Kharbhan s/o Ram Gulam as Shikmi tenant with a note ' Batai Nisfi' plot no. 3643/- 288 is recorded in his name in class 19 but the disputed plot is 4643/-288. There is a mistake. An uncertified copy of Khasra 1364F is on file.**

These are remarks column entry in favour of Kharbhan but the plots are not clear, In the Consolidated Khasra 1353 to 1364 F main column entry continued in favour of Radha Krishna etc. In 1356F over plot no. 1072/316 Kabiz Kharbhan son of Ramgulam has been noted. This entry in 1357 F, 1358F, 1361F, 1362F, 1363F, and 1364F.

In 1365 F plot no. 1072/316 is in favour Kharbhan. On plot no. 1100/-174 possession of Kharbhan is noted in 1357 F, 1359F, 1361, 1362, 1363, 1364F. There is no such entry in 1365F against this plot on plot no. 3275, possession stands from 1358 F as noted in the consolidated khasra, there is no such entry in 1363F. There is ag. Remarks col. Entry against this plot in 1364 F and 65 F.I. have perused the statement of ARK who appeared before me with the khasra of 1365F. He stated that entry of remarks column in 1365F. Khasra is made but it has been struck off (plot no. 1072/-316 similarly in case of plot no. 3275/360 Remark Col. Entry has been made in red ink but it has been struck of, extract of khasra 1365F filed by the defdt. Radha Krishna shows that remarks col. Entry made there in was struck off. However, there are no papers on file to show the possession of Kharbhan over the suit and after 1365F since there are no such entry in favour of Kharbhan for the last more than ten years(before the start of consolidation) he can hardly before his claim of sirdary rights over the same the remarks column entry in possession of Kharbhan in 1359F after do not seem to be genuine because be unfit to have become adhivasi cum sirdar 1363. On the basis continuity of possession over the suit land is not proved from the records on file. The objectors Kharbhan has not been able to establish his claim of sirdari rights. Radha Krishna etc. are the kabiz tenure holders of the suit land, the issues are accordingly decided."

4. Aforesaid judgment was thereafter challenged by way of three Appeals filed by contesting respondents, however, all

appeals were dismissed vide a judgment dated 07.05.1971 and findings returned by the Consolidation Officer were confirmed with further observation that it was not a case of adverse possession rather appellants had cultivated land in suit as *Batai Nisfi*. Relevant part of said judgment is quoted below :-

"I have heard the parties and gone through the evidence on file. The appellant has claimed possession on the disputed land since before the enforcement of ZA Act and have filed extract of khasra for 12 years to prove his possession. The entry of possession before 1365F to 1359F in favour of appellant are in the remarks col. Of the Khasra. As held in RD 1966 page 132 such entries are against law and cannot be recognised for going sirdari rights. As the peirod of possession upto 1359F is of no avail to the appellant. The entries of possession for 1361 F and do not show adverse possession of the appellant but show that he cultivated all land on batai. This conclusion is on the basis of the extract of khasra for 12 years filed by the applicant. Thus it is not proved that the applicant has entered in adverse possession after the enforcement of ZA Act the and the lower court is justified in not giving him sirdari right I have no reason to interfere with the finding of the lower court.

The appeal has no force and is therefore dismissed. This will govern case no. 1025 and 1029 also."

5. Contesting respondents being aggrieved by aforesaid two judgments have filed three Revision Petitions u/s 48 of 'U.P.C.H. Act' before the Deputy Director of Consolidation, Azamgarh who vide an order dated 26.10.1971 has partly allowed the revision petitions and interfered with concurrent findings returned by the Consolidation Officer and the Settlement Officer of Consolidation.

6. The Deputy Director of Consolidation has held that revisionist/contesting respondent-2 has able to prove to an extent that he was in possession of Gata No. 1072, 1100 and 3275 in 1358-F, 1359-F, 1361-F and 1362-F and accordingly, held that he became firstly *adhivasi* and later on *sirdar* of said plots and accordingly, allowed the revision petition partly to the extent of said three plots i.e. 1072, 1100 and 3275.

7. Thereafter, petitioners have filed a restoration/recall application before D.D.C. concerned which was allowed vide an order dated 03.10.1972 by D.D.C. itself. Thereafter, contesting respondents have challenged said order before this Court in Writ Petition No. 7615/1972. and this Court vide its order dated 25.08.1978 remanded the matter back to concerned D.D.C. to pass a fresh order. Accordingly, D.D.C. concerned had reconsidered and rejected the restoration/recall application vide an order dated 17.09.1982. Relevant part of Order dated 26.10.1971 passed by D.D.C. is mentioned hereinafter:-

“उपरोक्त से यह प्रकट होता है कि प्रार्थी का कब्जा 1072 नम्बर पर केवल 56 फसली में दर्ज था तथा 1072, 1100 और 3275 नम्बर पर 59 फसली में दर्ज है। जमीन्दारी उन्मूलन अधिनियम के अन्तर्गत अधिवासी अधिकार 56 तथा 59 फसली के इन्द्राज के आधार पर ही हासिल होते हैं। अन्तर केवल यह है कि 56 फसली का इन्द्राज यदि नियमानुकूल है तो वह अधिवासी बनने के लिये पर्याप्त है। 59 फसली के इन्द्राज के लिये यह आवश्यक है कि काबिज व्यक्ति पूरे फसली साल में काबिज रहा हो। विपक्षी की ओर से यह तर्क किया गया है कि 56 और 59 फसली में किये गये इन्द्राज नियमानुसार नहीं हैं। प्रार्थी का कब्जा खाना कैफियत में लिया है जबकि उसे शिकमी के खाने में दर्ज होना चाहिए। विपक्षी की ओर से इस सम्बन्ध में लैण्ड रिकार्ड मैनुअल के पैरा 87 पर बहुत बल दिया गया है किन्तु उक्त पैरे के प्रोवाइजो में यह भी उल्लेख है कि शिकमी के खाने में तभी इन्द्राज किया जायेगा जबकि बटवारा को यह इत्तममिनान हो जाये कि सम्बन्धित काश्तकारों के बीच में कोई मोआहिदा (कान्ट्रैक्ट) हो गया है। यदि काबिज व्यक्ति और असल काश्तकार के बीच में कोई मोआहिदा (कान्ट्रैक्ट) नहीं हुआ है तो

कब्जे का इन्द्राज खाना कैफियत में किया जायेगा। इसलिये 1356 तथा 59 फसली में किये गये इन्द्राज अनियमित नहीं कहे जा सकते।

दाखिल सबूत से यह भलीभाँति साबित है कि प्रार्थी गाटा सं० 1072, 1100, और 3275 नम्बर पर 58, 59, 61, 62 फसली में काबिज रहा है। 1360 फसली में कागजात नहीं बने। अतः प्रार्थी नियुक्त तिथि पर इन तीनों नम्बरों का सीरदार हो जाता है। इन नम्बरों पर विपक्षीगण को मुखालिफाना कब्जे के आधार पर सीरदारी हक हासिल करने की अवधि समाप्त नहीं हुई है अतः बन्दोबस्त अधिकारी, चकबन्दी तथा चकबन्दी अधिकारी का आदेश आंशिक रूप से निरस्त कर यह आदेश दिया जाता है कि प्रार्थी गाटा सं० 1072, 1100, और 3275 का सीरदार दर्ज हो। मालगुजारी रास्टर रेट से लगाई जायेगी। यह आदेश उपरोक्त तीनों निगरानीयों पर लागू होगा।”

8. Aforesaid both orders dated 26.10.1971 and 17.09.1982 are challenged before this Court in present writ petition.

9. This Court has passed an interim order on 09.11.1982 that :-

“Issue notice returnable on the early date.

Meanwhile, petitioners may not be dispossessed from the land if they have not already been dispossessed.”

10. Sri Durgesh Kumar Singh, learned Senior Advocate assisted by Sri Vishnu Singh, learned counsel for petitioner has submitted that concurrent findings on facts as well as on law returned by two Authorities viz. C.O. and S.O.C. were lightly interfered by D.D.C. in revisional jurisdiction.

11. Learned Senior Advocate has further submitted that objections filed by contesting respondents so far as Gata No. 1072, 1100 and 3275 were accepted that he was recorded in 1356-F, 1358-F, 1359-F, 1361-F and 1362-F, however, a fact which was effectively considered by C.O. and S.O.C. that subsequently, in 1365-F, there was no entry in favour of

contesting respondents on plot no. 3275. So far as plot no. 1072 is concerned, entry of respondent in 1365-F was made but it was struck off. Similarly was the case of plot no. 3275. The initial entries were recorded in remark column and subsequent entries were with remark 'batai nisfi'.

12. On plot no. 1100 also, there is no entry in 1365-F in favour of contesting respondents, therefore, nature of entries for 1356-F, 1358-F, 1359-F, 1361-F and 1362-F becomes important that entries were of '*sikmi tenant*' with a note of *Batai Nisfi*. To declare respondents *adhivasi* and *sirdar*, on basis of revenue records of 1356-F and 1359-F, ignoring above referred facts, would not be a correct approach.

13. Learned Senior Advocate for petitioner has further submitted that in order to prove adverse possession, there must be a clear and unequivocal evidence that possession was hostile to real owner. There must be animus of person doing those act which must be ascertained from facts and circumstances of the case, however, D.D.C. in a very cursory manner has interfered with concurrent findings of two authorities. Even there is no specific finding that concerned respondent was in hostile possession for more than 12 years.

14. Per contra, S/Sri ChandraJeet Yadav and Upendra Nath Yadav have vehemently opposed above submissions and placed heavy reliance upon the judgment of Deputy Director of Consolidation that once name of contesting respondents was recorded for many years, obviously, it would become hostile. Two Authorities i.e. C.O. and S.O.C. have misread revenue

records so much as that they have ignored possession of contesting respondents on three plots referred above for a very long period as well as that petitioners have never taken steps for eviction. Respondents have become *adhivasi* and *sirdar* on basis of revenue entry of 1356-F and 1359-F and it were rightly considered by the D.D.C.

15. Heard learned counsel for parties and perused the records.

16. It is a case where concurrent findings of two Authorities i.e. C.O. and S.O.C. were disturbed by Revisional Authority i.e. D.D.C. and Revisions were partly allowed qua to plot nos. 1072, 1100 and 3275 and that contesting respondent-2 has possession over said plots in nature of adverse possession as well as they become *adhivasi* and *sirdar*.

17. In order to consider rival submissions, Court proceeded to consider concurrent finding returned by the Consolidation Officer and Settlement Officer Consolidation that name of contesting respondent was recorded on the above referred three plots in 1356-F, 1358-F, 1359-F, 1361-F and 1362-F as '*sikmi*' with a note of *Batai Nisfi*, however, their name were not recorded in subsequent fasli years i.e. there was no entry in favour of contesting respondent (*kharban*) for last more than 10 years before consolidation commenced and that findings was not considered by Revisional Court, therefore, it was not set aside, despite it has legal consequence.

18. In view of above, one of basic ingredients to prove adverse possession is that hostile possession be continued for

more than 12 years before it was raised but on basis of undisputed revenue record, it was absolutely missing.

19. In above circumstances, a findings returned by the Revisional Court on basis of revenue records of 1356-F, 1359-F, 1362-F and 1365-F were erroneous since it would fall short of requirement to prove adverse possession, when continuous possession of contesting respondent was not proved on basis of subsequent revenue entries as admittedly said respondents' name were not recorded thereafter.

20. In view of above, entry of '*sikmi tenant*' with a note of *Batai Nisfi* would also become relevant that it was a permissive possession and not an adverse possession.

21. Otherwise also, Court finds that basic ingredient to prove adverse possession i.e. *nec vi nec clam and nec precario* are absolutely missing.

22. In this regard, Court takes note of a judgment of this Court in **Mata Din Singh vs. DDC and others, 2023:AHC:158629** and for reference, relevant paragraph is quoted below :-

"28. Recently the Supreme Court in Uttam Chand (Dead) through LRs vs. Nath Ram (Dead) through LRs and others, 2020 (11) SCC 263 has reiterated earlier judgments and observed that -:

"15. The matter has been examined by a Constitution Bench in M. Siddiq (Ram Janmabhumi Temple-5 J.) v Suresh Das [M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das, (2020) 1 SCC 1] wherein, it has been held that a plea of adverse possession is founded on the acceptance that ownership

of the property vests in another, against whom the claimant asserts possession adverse to the title of the other. The Court held as under: (SCC pp. 703-706, paras 1142-1143 & 1147-1150)

1142. A plea of adverse possession is founded on the acceptance that ownership of the property vests in another against whom the claimant asserts a possession adverse to the title of the other. Possession is adverse in the sense that it is contrary to the acknowledged title in the other person against whom it is claimed.

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1143. A person who sets up a plea of adverse possession must establish both possession which is peaceful, open and continuous possession which meets the requirement of being nec vi nec claim and nec precario. To substantiate a plea of adverse possession, the character of the possession must be adequate in continuity and in the public because the possession has to be to the knowledge of the true owner in order for it to be adverse. These requirements have to be duly established first by adequate pleadings and second by leading sufficient evidence. Evidence, it is well settled, can only be adduced with reference to matters which are pleaded in a civil suit and in the absence of an adequate pleading, evidence by itself cannot supply the deficiency of a pleaded case. Reading Para 11(a), it becomes evident that beyond stating that the Muslims have been in long, exclusive and continuous possession beginning from the time when the Mosque was built and until it was desecrated, no factual basis has been furnished. This is not merely a matter of details or evidence. A plea of adverse possession seeks to defeat the rights of the true owner and the law is not readily accepting of such a case unless a clear and cogent basis has been made out in the pleadings and established in the evidence.

1147. In *Supt. & Remembrancer of Legal Affairs v. Anil Kumar Bhunja* [*Supt. & Remembrancer of Legal Affairs v. Anil Kumar Bhunja*, (1979) 4 SCC 274 : 1979 SCC (Cri) 1038] , R.S. Sarkaria, J. speaking for a three-Judge Bench of this Court noted that the concept of possession is polymorphous embodying both a right (the right to enjoy) and a fact (the real intention). The learned Judge held: (SCC p. 278, para 13)

13. It is impossible to work out a completely logical and precise definition of possession uniformly applicable to all situations in the contexts of all statutes. Dias and Hughes in their book on Jurisprudence say that if a topic ever suffered from too much theorising it is that of possession. Much of this difficulty and confusion is (as pointed out in Salmond's *Jurisprudence*, 12th Edn., 1966) caused by the fact that possession is not purely a legal concept. Possession, implies a right and a fact; the right to enjoy annexed to the right of property and the fact of the real intention. It involves power of control and intent to control. (See Dias and Hughes, *ibid.*) These observations were made in the context of possession in Section 29(b) of the Arms Act, 1959.

1148. In *P. Lakshmi Reddy v. L. Lakshmi Reddy* [*P. Lakshmi Reddy v. L. Lakshmi Reddy*, 1957 SCR 195 : AIR 1957 SC 314] , Jagannadhadas, J. speaking for a three-Judge Bench of this Court dwelt on the classical requirement of adverse possession: (AIR pp. 317-18, para 4)

4. Now, the ordinary classical requirement of adverse possession is that it should be *nec vi nec clam nec precario*. (See *Secy. of State for India in Council v. Debendra Lal Khan* [*Secy. of State for India in Council v. Debendra Lal Khan*, 1933 SCC OnLine PC 65 : (1933-34) 61 IA 78] IA at p. 82.) The possession required must be adequate in continuity, in publicity and in extent to show that it is possession adverse to the competitor.

The Court cited the following extract from U.N. Mitra's Tagore Law Lectures on the Law of Limitation and Prescription: (AIR p. 319, para 7)

7. An adverse holding is an actual and exclusive appropriation of land commenced and continued under a claim of right, either under an openly avowed claim, or under a constructive claim (arising from the acts and circumstances attending the appropriation), to hold the land against him (sic) who was in possession. (Angell, Sections 390 and 398). It is the intention to claim adversely accompanied by such an invasion of the rights of the opposite party as gives him a cause of action which constitutes adverse possession. [6th Edn., Vol. I, Lecture VI, at p. 159]

This Court held: (AIR p. 319, para 7)

Consonant with this principle the commencement of adverse possession, in favour of a person implies that the person is in actual possession, at the time, with a notorious hostile claim of exclusive title, to repel which, the true owner would then be in a position to maintain an action. It would follow that whatever may be the animus or intention of a person wanting to acquire title by adverse possession his adverse possession cannot commence until he obtains actual possession with the requisite animus.

1149. In Karnataka Board of Wakf v. Union of India [Karnataka Board of Wakf v. Union of India, (2004) 10 SCC 779] , S. Rajendra Babu, J. speaking for a two-Judge Bench held that: (SCC p. 785, para 11)

11. Physical fact of exclusive possession and the animus possidendi to hold as owner in exclusion to the actual owner are the most important factors that are to be accounted in cases of this nature. Plea of adverse possession is not a pure question of law but a blended one of fact and law. Therefore, a person who claims adverse possession should show: (a) on what date he came into possession, (b) what was the nature of his possession, (c) whether the

factum of possession was known to the other party, (d) how long his possession has continued, and (e) his possession was open and undisturbed.

The ingredients must be set up in the pleadings and proved in evidence. There can be no proof sans pleadings and pleadings without evidence will not establish a case in law.

1150. In *Annakili v. A. Vedanayagam* [*Annakili v. A. Vedanayagam*, (2007) 14 SCC 308] , this Court emphasised that mere possession of land would not ripen into a possessory title. The possessor must have animus possidendi and hold the land adverse to the title of the true owner. Moreover, he must continue in that capacity for the period prescribed under the Limitation Act.”

23. The D.D.C has not considered claim of the respondent on basis of ‘adverse possession’ but on nature revenue entries that the respondent was recorded on plot no. 1072 in 1356-F as well as recorded on plot no. 1072, 1100 and 3275 in 1359-F, therefore, respondent became ‘Adhivasi’ and in regard to entry of ‘sikmis’ is concerned, the D.D.C. held that such entries would be made only after ‘partition or any contract’, therefore, ‘sikmi’ was a legal entry and further held that respondent became Sirdar on basis year i.e. in 1362-F so far as above referred three plots. The findings in regard to ‘partition’ or ‘contract’ were based on assumption and not on records, therefore, are unsustainable.

24. The Deputy Director of Consolidation has returned a finding that Respondent-2 become firstly *adhivasi* and later on *sirdar* in a very cursory manner only on basis that he was recorded in 1356-F, 1359-F and 1362-F on three plots without taking note nature and manner of entry, i.e., whether it was

recorded in accordance with the provisions of Land Revenue Act as well as that subsequently, i.e., in 1365 Fasli his name was cut off. The Deputy Director of Consolidation has also ignored the findings of two authorities on basis of record that 10 years prior to consolidation proceedings commenced, name of Respondent-2 was not recorded. It would become more important when Deputy Director of Consolidation has not even considered plea of adverse possession.

25. I have already discussed in earlier paragraphs that plea of adverse possession raised by Respondent-2 in objection, was not legally made out. So far as entries of 1356-F, 1359-F and 1362-F are concerned, in this regard the Court takes note of judgments passed by Supreme Court in **Bachan and another vs. Kankar and others, (1972) 2 SCC 555** that if entries are not genuine, it would not confer any Adivasi right and for that the Court takes note of detail reasons assigned by Consolidation Officer on basis of record that there was no document to show possession of respondent over suit land after 1365-F since there was no such entry in his favour for last more than 10 years before start of consolidation proceedings as well as that on basis of entries in remark column in 1356-F, 1359-F it cannot be a genuine entry, therefore, he cannot be declared Adivasi or Sirdar on basis of such nature of entry of 1362-F. The DDC without much deliberation on manner of entries of 1356-F, 1359-F and 1362-F has wrongly proceeded to declare that respondents became *adhivasi* and *sirdar*. Relevant paragraphs of above referred judgment are quoted below :-

“15. This Court in *Sonawati v. Sri Ram* [AIR 1968 SC 466(1968) 1 SCR 617 :] said that Section 20 of the U.P. Zamindari Abolition and Land Reforms Act, 1951 conferred certain rights upon persons whose names were recorded in the revenue records in respect of agricultural land. In *Sonawati* case this Court found that there was strong evidence which was relied on by the Revenue Court that the name of Pritam Singh predecessor-in-interest of the appellants was surreptitiously entered in the Khasra. The first appellate court there did not at all consider that evidence. **The surreptitious entry in Sonawati case was held by this Court to disentitle the appellants to any adhivasi right under Section 20 of the U.P. Zamindari Abolition and Land Reforms Act.**

16. This Court recently in *Ram Das v. Deputy Director of Consolidation, Ballia*, [(1971) 1 SCC 460 : AIR 1971 SC 673] dealt with the contention of the appellants on the one hand who were recorded as Sir Khudkasht-holders of the plots in dispute and the contention of the respondents on the other who were entered as sub-tenants in respect of those plots in the year 1356 Fasli. Suits were filed between the parties. A compromise was entered into the suits. It was admitted by the respondents that the appellants were Bhoomidars and that the respondents had no interest. The further admission in the compromise was that the entry in the revenue records in favour of the respondents was fictitious. The respondents subsequently applied for setting aside the compromise decrees on the ground that they had been obtained fraudulently. During the pendency of the suits consolidation proceedings under the U.P. Consolidation of Holdings Act, 1953 commenced. The Consolidation Authorities held that the suits were not maintainable because on the date on which the suits were filed the respondents had become sirdars. The appellants filed a writ petition under Article 226 challenging the order of the Consolidation Authorities. The High Court held in that case relying on the earlier decisions of that Court that even if the

entry was fictitious the respondents who were recorded as occupants would, under Section 20(b) of the U.P. Zamindari Abolition and Land Reforms Act, 1951 become adhvasi of the disputed land. This Court relying on the earlier decision in Sonawati case held that there was evidence to show that the entry was fictitious and the person whose name was entered on the record on the material date could not claim the right of an adhvasi."

26. The above referred case was followed in **Chandrika Prasad vs. Pullo (D) by LRs and others, (2000) 4 SCC 227** and for reference, relevant paragraph is quoted below :-

"22. xxxxx

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5. It was submitted by learned counsel for the appellants that if the entry was not correct, it could not be regarded as an entry made according to law at all and the right to take or retain possession of the land could not be determined on the basis of an incorrect entry. He placed reliance on the decision of this Court in *Bachan v. Kankar* [(1972) 2 SCC 555 : (1973) 1 SCR 727 : AIR 1972 SC 2157]. In that judgment the nature of the entries in khasra or khatauni is discussed and it is also discussed as to how this entry should be made. This Court held that entries which are not genuine cannot confer adhvasi rights. It has been observed that an entry under Section 20(b) of the said Act, in order to enable a person to obtain adhvasi rights, must be an entry under the provisions of law and entries which are not genuine cannot confer adhvasi rights. In that judgment it has been stated that the High Court was

wrong when it held that though the entry was incorrect, it could not be said to be fictitious. That observation, however, has to be understood in the context of what follows, namely, that an entry which is incorrectly introduced into the records by reason of ill-will or hostility is not only shorn of authenticity but also becomes utterly useless without any lawful basis. This judgment, in our view, does not lay down that all incorrect entries are fictitious but only lays down that a wrong entry or incorrect entry which has been made by reason of ill-will or hostility cannot confer any right under Section 20(b) of the said Act. This decision is clarified by a subsequent judgment of this Court in Vishwa Vijay Bharati v. Fakhrul Hassan [(1976) 3 SCC 642 : 1976 Supp SCR 519 : AIR 1976 SC 1485] where it has been held as follows (at p. 1488 of AIR): (SCC p. 645, para 14)

'It is true that the entries in the revenue record ought, generally, to be accepted at their face value and courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine, not forged or fraudulent, entries. The distinction may be fine but it is real. The distinction is that one cannot challenge the correctness of what the entry in the revenue record states but the entry is open to the attack that it was made fraudulently or surreptitiously. Fraud and forgery rob a document of all its legal effect and cannot found a claim to possessory title.'

(emphasis supplied)"

27. Above referred findings of Consolidation Officer were upheld by Settlement Officer of Consolidation, however, it was very lightly interfered by Deputy Director of Consolidation, therefore, interference is legally unsustainable as well as above discussed legal position is also against the contesting respondents.

28. Therefore, impugned judgment passed by Deputy Director of Consolidation is accordingly set aside and judgments passed by Consolidation Officer and Settlement Officer of Consolidation are upheld.

29. Writ petition is, accordingly, **allowed**.

(SAURABH SHYAM SHAMSHERY, J.)

April 02, 2026

[N. Sinha]