2026:AHC:97965

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 1904 of 2026

Bhawani Prasad Tiwari

.....Petitioner(s)

Versus

State Of U.P. And 10 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vikas Srivastava
Counsel for Respondent(s)	:	C.S.C., Pradeep Singh

Court No. - 55

HON'BLE ARUN KUMAR, J.

1. Heard Sri Vikas Srivastava, learned counsel for the petitioner and learned Standing Counsel for the respondent nos.1 to 4. Sri Pradeep Singh, Advocate, has accepted notice on behalf of respondent no.5.

2. The present writ petition has been filed challenging the order of the respondent no.2 dated 17.11.2025, allowing the revision filed by respondent nos.7 to 9 challenging the order dated 25.7.2024 passed under Section 38(1) of the U.P. Revenue Code, 2006.

3. It is contended by learned counsel for the petitioner that in proceeding under Section 38(1) of the U.P. Revenue Code, 2006 initiated against the entries in respect of respondent nos.7 to 9 relating to Plot Nos.333, 335 and 344, the respondent no.3 by its order dated 25.7.2024 had directed that the name of respondent nos.7 to 9 be expunged and the plots in dispute be recorded as Usar in the relevant revenue records. The said order was challenged by the respondent nos.7 to 9 in revision before the respondent no.2, which has been allowed and the matter has been remanded back to be decided afresh.

4. It is further contended by learned counsel for the petitioner that against the order passed under Section 38(1) of the U.P. Revenue Code, 2006, an appeal lies under Section 38(4), therefore, no revision under Section 210 was maintainable before the Board of Revenue, U.P. at Lucknow. It has been further contended that the respondent nos.7 to 9 are transferees of the deceased respondent no.6 Majada Javi, whose name was fraudulently

recorded over the plots in dispute, on the basis of which she executed a sale deed in their favour on 2.8.2022. The respondent no.2 has erred in entertaining the revision and setting aside the order dated 25.7.2024.

5. I have considered the submissions made by learned counsel for the parties and perused the record.

6. The order dated 25.7.2024 purported to have been passed in proceeding under Section 38(1) of the Code, 2006 was initiated on the basis of report submitted by Tehsildar on 9.3.2024. Perusal of the order dated 25.7.2024 shows that initially CH Form 45 in respect of Plot Nos.333, 335 and 344 was prepared comprising in Khata No.226 recorded as Usar. The said revenue records were modified in proceedings under Section 109 on the basis of an order passed by the Consolidation Officer dated 11.5.1965, pursuant to which the name of Majada Javi was recorded over the plots in dispute in Khatauni of 1392 Fasli. The respondent no.3 holding the said entries to be prima facie forged has proceeded to expunge the name of respondent nos.7 to 9 and Majada Javi. The perusal of the record shows that the name of Majada Javi was recorded in the Khatauni of 1392 Fasli and the present correction has been ordered in Khatauni 1428 to 1433 Fasli, as such, it is evident that name of Majada Javi continued in the revenue records for more than 30 years. Pursuant to the sale deed dated 2.8.2022 executed by Majada Javi, the names of respondent nos.7 to 9 were recorded in the revenue records on the basis of order passed by the Tehsildar dated 18.7.2023 against which an appeal is pending consideration.

7. In my opinion, the order of the Sub-Divisional Magistrate exercising powers under Section 38(1) of the Code, 2006 merely on a prima facie satisfaction of the consolidation records being forged is uncalled for. Once, if any discrepancy was found in the consolidation record, proper proceedings for correction of the consolidation records was first required to be made, pursuant to which the entries could have been corrected under the U.P. Revenue Code, 2006. The respondent no.2 was justified in setting aside the order of the Sub-Divisional Officer dated 25.7.2024, passed in purported exercise of Section 38(1), having been passed by exercising jurisdiction not vested in him. Moreover, when an appeal

against the order dated 18.7.2023 was pending before the Sub-Divisional Magistrate, there was no justification to initiate suo-motu proceeding in purported exercise of power under Section 38(1) of the Code, 2006.

8. In view of the aforesaid, I find no good ground to interfere in the order dated 17.11.2025 passed by respondent no.2.

9. The writ petition lacks merit and is, accordingly, dismissed.

(Arun Kumar,J.)

April 30, 2026
Anil

Digitally signed by :-
ANIL KUMAR PATEL
High Court of Judicature at Allahabad