

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition No.2068 (M/S) of 2019**

Mohd. Yushuf and others .....Petitioners

**Versus**

Shameem Ahamad and others .....Respondents

Mr. M.S. Tyagi, Sr. Advocate assisted by Mr. Sunil Chandra, Advocate for the petitioners.

Mr. Nagesh Aggarwal, Advocate for respondent no.1.

Mr. Krishan Kant Joshi, Advocate holding brief of Mr. Dharmendra Barthwal, Advocate for respondent no.3.

None for other respondents despite sufficient service.

**Hon'ble Pankaj Purohit, J. (Oral)**

By means of present writ petition filed under Article 227 of the Constitution of India, the petitioners have put to challenge the judgment and order dated 17.04.2018 and 24.05.2019 (Annexure Nos.16 and 20 of the writ petition) respectively.

2. It is the main contention of the learned counsel for the petitioners that the original order dated 16.02.2001 passed by the Consolidation Officer, Roorkee (East) in Case No.1210, Atar Singh vs. State, under Section 9A(2) of the U.P. (Uttarakhand) Consolidation of Land Holdings Act, 1953 (hereinafter referred to as the "Act"). The Presiding Officer of the court was Diwan Singh Negi. The said order dated 16.02.2001 was recalled on the Restoration Application moved by the respondent-Shameem Ahamad and the matter was restored to its original number. Subsequently, the 5<sup>th</sup> Consolidation Officer, Roorkee, vide judgment and order dated 25.04.2007 decided the aforesaid case, affirmed the order dated 16.02.2001 and the objections filed by Atar Singh

S/o Karam Singh and Mohd. Yushuf, were accepted while the objections filed by Shameem Ahamad S/o Saddiq dated 26.12.2005, 29.03.2006, 27.09.2006 and 14.06.2006 were rejected.

3. Aggrieved by the aforesaid judgment and order dated 25.04.2007 passed by the 5<sup>th</sup> Consolidation Officer Roorkee, an appeal was preferred by Shameem Ahamad S/o Mohd. Saddiq before the Settlement Officer (Consolidation). The said appeal was registered as Appeal No.06 of 2017-18. The said appeal was decided and allowed vide judgment and order dated 17.04.2018 by the Settlement Officer (Consolidation), Haridwar Camp at Roorkee. The post of Settlement Officer (Consolidation) was manned on the said date by the same officer-Diwan Singh Negi, who had earlier passed the order dated 16.02.2001 in the capacity of Consolidation Officer. The matter was then taken to revision by the petitioners before the Deputy Director of Consolidation in a revision which was registered as Revision No.58/2017-18, Mohd. Yushuf and others vs. Shameem and others, under Section 48 of the Act. The said revision petition was dismissed which resulted into filing of the present writ petition.

4. The first and foremost submission made by the learned counsel for the petitioners is that the order suffers from theory of personal bias as Mr. Diwan Singh Negi while working as a Consolidation Officer, Roorkee has passed the order dated 16.02.2001 and when that order was set aside in restoration application moved by the parties, he again heard

the said matter in the capacity of Settlement Officer (Consolidation), and allowed the appeal by reason of judgment and order dated 17.04.2018.

5. According to the learned Senior Advocate, this should not have been done by Mr. Diwan Singh Negi who was manning the office of the Settlement Officer (Consolidation) on that date.

6. Per contra, Mr. Nagesh Agarwal, learned counsel appearing for respondent no.1 submits that the earlier order passed by Mr. Diwan Singh Negi, the Consolidation Officer has already been recalled and the order which was passed on 25.04.2007 was passed by the another Consolidation Officer and therefore, personal bias would not be attracted.

7. Having heard learned counsel for the parties, this Court is of the view that since the original order dated 16.02.2001 which has been recalled, was the basis of the entire controversy and the said order was affirmed by the another officer holding the post of Consolidation Officer vide order dated 25.04.2007, therefore, it would be in the fitment of the propriety that Mr. Diwan Singh Negi should keep himself away from the said appeal, but instead of doing that, he passed the order dated 17.04.2018 by allowing the appeal against the order of Consolidation Officer.

8. In such view of the matter, the order passed by the learned Settlement Officer (Consolidation) cannot sustain simply for the aforesaid reason and deserves to be quashed. Moreover, this issue was also raised before the Revisional

Court by the petitioners but the same has not been properly dealt with by the learned Revisional Court i.e. Deputy Director of Consolidation/Additional Collector (Admn.), Haridwar, while deciding the Revision No.58 of 2017-18 under Section 48 of the Act.

9. Accordingly, the writ petition is allowed. Both the orders dated 17.04.2018 and 24.05.2019 impugned in this writ petition are set aside. The matter is remanded to the Settlement Officer (Consolidation), Haridwar Camp, Roorkee for deciding the aforesaid appeal afresh in accordance with law as expeditiously as possible, but not later than three months from today.

10. The aforesaid order has been passed with the consent of learned counsel for all the parties.

**(Pankaj Purohit, J.)**  
16.12.2025

Ravi