



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 849 of 2026

Mohd. Islam

.....Petitioner(s)

Versus

State Of U.P. And 6 Others

.....Respondent(s)

Counsel for Petitioner(s) : Gautam Baghel, Utkarsh Singh

Counsel for Respondent(s) : Azad Rai, C.S.C., Sudhir Kumar

Court No. - 19

HON'BLE KUNAL RAVI SINGH, J.

1. Heard Sri Gautam Baghel along with Sri Utkarsh Singh, learned counsel for the petitioner, Sri Sudhir Kumar, learned counsel for respondent nos.6 and 7 and learned Standing Counsel on behalf of the State-respondents.

2. Learned counsel for the petitioner is permitted to correct the typographical error in the prayer clause during the course of the day.

3. The present writ petition has been filed challenging the order dated 02.08.2024, by which appeal filed by respondent nos.6 and 7 has been allowed and the order dated 08.01.2026, by means of which, the revision filed by the petitioner has been dismissed.

4. Learned counsel for the petitioner submitted that initially, the name of the petitioner came to be recorded in the revenue records on the basis of P.A.11 on 11.03.1995, upon the death of his father in the year 1992. Thereafter, on 18.09.2018, an application came to be filed on behalf of respondent nos.6 and 7 stating that respondent no.6 was the son of the petitioner's late father and respondent no.7 was legally wedded wife of

petitioner's late father. The said application came to be dismissed vide order dated 14.05.2024 after conducting a detailed enquiry. He further submits that upon the rejection of the application, an appeal came to be filed, in which, a case was set up by the appellants i.e. respondent nos.6 and 7 that respondent no.7 is the second wife of petitioner's father and respondent no.6 is the step brother of petitioner. The said appeal was allowed illegally by means of order dated 02.08.2024 and thereafter, the revision filed by the petitioner has also been illegally dismissed. He submits that initially, the pedigree as set up in the application was of a real brother whereas in the appellate court, the pedigree of the respondents has been changed to second wife and step brother. On this basis, the pleadings have been improved, which cannot be done as the appellate court could have only seen it on the basis of the application filed earlier. He further submitted that the setting aside of the order dated 11.03.1995 is also illegal inasmuch as it is not an administrative order but it is an order passed upon detailed enquiry by concerned revenue officials and later, the name has been mutated in the revenue record, which has continued for a period of 23 years.

5. In light of such long interval, learned counsel for the petitioner submitted that the proper remedy is to file a suit for declaration instead of moving an application to record their names because the title of the respondents is under a cloud due to the inconsistent pleadings set up by the respondents. He further submits that as question regarding title cannot be seen in summary proceedings hence, the proper remedy is a declaration of title by the respondents and the lower courts have illegally allowed the proceedings.

6. Per contra, learned counsel appearing on behalf of respondent nos.6 and 7 has submitted that it is merely a remand order by the appellate court and at this stage, all the rights can be determined again afresh by the trial court. Therefore, the order passed by the appellate authority and revisional authority

does not need any interference.

7. Matter requires consideration.

8. Learned counsel for the respondents are accorded four weeks' time to file counter-affidavit. Two weeks, thereafter, for filing rejoinder affidavit.

9. List thereafter.

10. Until further orders of this Court, the effect and operation of order dated 02.08.2024 and 08.01.2026 shall remain stayed. Parties shall maintain status quo over the property and shall not create any third party rights.

March 20, 2026

Priya

(Kunal Ravi Singh,J.)