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**(2025) 12 UK CK 0041**

**Uttarakhand HC**

**Case No:** Writ Petition Miscellaneous Single No. 810 Of 2024

Mehmood Khan

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

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**Date of Decision:** Dec. 3, 2025

**Acts Referred:**

- Uttar Pradesh Consolidation Of Holdings Act, 1953 - Section 49

**Hon'ble Judges:** Pankaj Purohit, J

**Bench:** Single Bench

**Advocate:** M.C. Kandpal, Devesh Kandpal, Devendra Pant, Yogesh Pandey

**Final Decision:** Dismissed

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### **Judgement**

Pankaj Purohit, J

1. By means of present writ petition, petitioner has put to challenge the order dated 28.12.2023, passed by Board of Revenue, whereby the revision-petition filed by respondent nos.3 to 6 was allowed and the matter was remanded back to the Additional Commissioner, Kumaon Division, Nainital.

2. The facts of the case, which resulted in the filing of the revenue revision by respondent nos. 3 to 6, are that an appeal was filed by the petitioner before the Additional Commissioner, Kumaon Division, Nainital, against the judgment and decree dated 24.01.2013 passed by the Assistant Collector, First Class, Kashipur, District Udham Singh Nagar, in Revenue Suit No.22 of 98 of 1991-92, *Gulam Hussain & Others vs. Ramesh Chandra & Others*.

3. Admittedly, the said appeal filed by the petitioner was barred by limitation, and an application for condonation of delay was filed along with the first appeal. The appeal was decided by the learned Additional Commissioner, Kumaon Division, Nainital, vide judgment and order dated 29.09.2015. This order was challenged by respondent nos. 3 to 6 by filing a revision petition before the Board of Revenue, registered as Revenue Revision No. 135 of 2015-16, *Gulam Hussain & Others vs. Mehmood Kha & Others*. The main ground for challenging the judgment and

order passed by the First Appellate Court was that the appeal had been allowed by the learned Additional Commissioner without considering the delay condonation application. Therefore, the order was argued to be bad in law, unsustainable, and liable to be set aside. The revision was allowed, and the matter was remanded back to the First Appellate Court by judgment and order dated 28.12.2023, which is impugned in the present writ petition.

4. It is contended by the learned Senior Advocate appearing for the petitioner that consolidation proceedings were initiated in Village Beljuri, District Kashipur, w.e.f. 23.12.1997, and the suit was filed by respondent nos. 3 to 6 in the year 1999. Therefore, the suit was not maintainable in view of the bar contained in Section 49 of the U.P. Consolidation of Holdings Act, 1953.

5. Per contra, learned counsel appearing for respondent nos. 3 to 6 disputed this fact, stating that the suit was filed in the year 1991-92 and not in the year 1998-99. He submitted that the number was later changed, as it is a common practice in the revenue courts to renumber original revenue suits and other proceedings.

6. Be that as it may, the question of maintainability of the revenue suit is the subject matter of the first appeal, which was decided without considering the delay condonation application by the learned Additional Commissioner, Kumaon Division, Nainital. Therefore, it is open to the petitioner to raise these submissions before the First Appellate Court. Since the matter has only been remanded back to the First Appellate Court to decide the appeal after considering the delay condonation application, this Court does not find any illegality or impropriety in the impugned order.

7. Accordingly, the writ petition is dismissed. The order dated 28.12.2023 passed by the Board of Revenue is hereby affirmed.

8. Pending application, if any, stands disposed of accordingly.