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**(2011) 05 AHC CK 0334**

**Allahabad High Court**

**Case No:** C.M.W.P. No. 25856 of 2011

Smt. Mahtu Nisha

APPELLANT

Vs

Deputy Director of  
Consolidation and  
Another

RESPONDENT

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**Date of Decision:** May 5, 2011

**Citation:** (2012) 1 AWC 352 : (2011) 113 RD 493

**Hon'ble Judges:** Amreshwar Pratap Sahi, J

**Bench:** Single Bench

**Final Decision:** Disposed Of

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### **Judgement**

Amreshwar Pratap Sahi, J.

Heard learned Counsel for the parties.

2. The Petitioner contends that in proceedings before the Settlement "Officer Consolidation, an order of status quo was passed on 24th January, 2011. The contesting Respondent No. 2 represented by Sri Prabhaker Dubey, filed a revision in which an order was passed by the Deputy Director of Consolidation on 24.3.2011 staying, 1. 2011 (112) RD 190 (SC).the operation of the interim order passed by the Settlement Officer Consolidation. The Petitioner appears to have moved an objection and the Deputy Director of Consolidation on 21st April, 2011 set aside the order dated 24.3.2011. The result was that the status quo order dated 24.1.2011 revived.

3. Again the contesting Respondent No. 2 appears to have moved some application and the Deputy Director of Consolidation instead of deciding the revision which was obviously against an interlocutory order proceeded to recall the order dated 21.4.2011.

4. Learned Counsel for the Petitioner contends that the entire discretion exercised by the Deputy Director is contrary to law and is even otherwise in violation of principles of natural justice as well as without jurisdiction. He submits that once the proceeding is

pending before the Settlement Officer Consolidation and an interim order has been passed, then the discretion ought not have been interfered with by the Deputy Director of Consolidation at the interlocutory stage.

5. Sri Dubey, learned Counsel for the Respondent No. 2 submits that since the Petitioner has not challenged the order dated 31.1.2011 and the subsequent order dated 4.2.2011 passed in the proceedings u/s 5-C(2), the order passed by the Settlement Officer Consolidation dated 24.1.2011 should not be allowed to continue. He submits that as a matter of fact, the Petitioner is trying to forestall the constructions which are being raised under a valid order u/s 5C(2) and hence the impugned order passed by the Settlement Officer Consolidation, cannot be maintained.

6. Sri Dubey further informs the Court that the next date fixed before the Deputy Director of Consolidation in the proceedings giving rise to the present writ petition is 12th May, 2011 which fact is not disputed by the learned Counsel for the Petitioner.

7. Learned Counsel for the parties agree that the matter be disposed of finally at this stage. Learned Counsel for the Petitioner prays that only Ram Subhag and Urmilla Devi were only parties in the revision which has given rise to the present writ petition, therefore, he may be permitted to delete the Respondent Nos. 3 to 29 who are only proforma parties and are parties before the Settlement Officer Consolidation.

8. In view of the nature of the dispute which has been raised in the contest between the parties, learned Counsel for the Petitioner is permitted to delete the Respondent Nos. 3 to 29 from the array of parties,

9. Having heard learned Counsel for the parties and perused the records, the proceedings before the Settlement Officer Consolidation in a time barred appeal are relating to a claim of mutation of the Respondent No. 2 over the land in dispute in which an order of status quo has been passed by the Settlement Officer Consolidation. The said appeal is still stated to be pending. The Petitioner is also alleged to have filed a civil suit for injunction.

10. Be that as it may, it is the said order of status quo dated 24.1.2011 which was subjected to a revision by the Respondent No. 2. The contention of the Petitioner is that the revision itself was not maintainable against an interlocutory order. This issue coupled with the fact that the parties were already represented, the Deputy Director of Consolidation instead of passing interim orders ought to have disposed of the revision itself in order to avoid any further litigation or confusion in the matter. The Deputy Director of Consolidation in the opinion of the Court interfered with the discretion exercised by the Settlement Officer Consolidation which could have been done only if the situation so warranted and on the facts as pleaded by the parties. It has been noted hereinabove that an order u/s 5(C)(2) has been passed. The Deputy Director of Consolidation ought to have assessed the impact of the said order also before having proceeded to either pass

an interim order or recall the same.

11. Accordingly, in view of the fact that the matter is already fixed for 12th May, 2011, this writ petition is disposed of with a direction to the Deputy Director of Consolidation to proceed to dispose of the revision finally on the date fixed without granting any unnecessary adjournments to either of the parties.

12. Till the matter is disposed of finally by the Deputy Director of Consolidation, the parties shall maintain status quo over the land in dispute as on today.

13. With the above observations, the writ petition stands disposed of.

14. Office is directed to issue a certified copy of this order to the learned Counsel for the Petitioner on payment of usual charges.