
JURISDICTIONAL AMBIGUITY IN THE UPCH ACT: A CRITICAL ANALYSIS OF POST-CONSOLIDATION CORRECTIONS OF MAPS

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ABSTRACT

This article examines a significant jurisdictional conundrum within the Uttar Pradesh Consolidation of Holdings Act, 1953, focusing on the authority of consolidation bodies to correct clerical errors via Section 42-A after a closure notification under Section 52. The legal limbo, currently before a Full Bench of the Allahabad High Court, has created widespread uncertainty, impeding thousands of landowners' access to effective legal recourse.

The analysis delves into two conflicting interpretations: the "purposive interpretation," which asserts that Section 52 mandates a complete transfer of jurisdiction to revenue authorities for finality; and the "beneficial interpretation," which posits that Section 42-A's non-obstante clause grants consolidation authorities an enduring, albeit limited, power to correct minor errors. This perspective is grounded in principles of equity and judicial efficiency.

Highlighting a deep-seated jurisprudential schism, the article concludes by urging for a definitive judicial resolution. It advocates for an approach that leverages the specialized knowledge of the original authorities while concurrently addressing administrative shortcomings, thereby ensuring that justice remains an accessible and not a privileged right for all citizens.

1. Introduction

A profound legal dilemma persists within the framework of the Uttar Pradesh Consolidation of Holdings Act, 1953 (hereinafter "UPCH Act"), a statute of paramount importance in the governance of rural landholdings. The UPCH Act is one of the foremost statute governing real estate in the rural domain. This jurisdictional ambiguity, which has resisted resolution for decades, continues to generate a backlog of cases, effectively obstructing access to justice for a significant segment of the agrarian population. The jurisprudential opacity surrounding this issue can be traced to a pivotal reference made by the Allahabad High Court in *Ashrafi Devi and 7 Others v. Deputy Director of Consolidation Varanasi and 3 Others*¹, a matter that remains pending. The protracted duration of this legal limbo—a stunning nine years—underscores a potential systemic flaw, particularly when contrasted with the more expedited resolution often afforded to commercial disputes.

This unresolved legal conundrum has engendered normative uncertainty, effectively disenfranchising swathes of agrarian stakeholders from accessing efficacious remedies. The conspicuous absence of judicial and legislative recalibration, perpetuates procedural ambiguity and undermines the spirit of Article 300A of the Constitution of India vis-à-vis the right to property.

The central issue for consideration is "Whether consolidation authorities have jurisdiction to correct clerical and arithmetical errors in any document, prepared under the provision of the Act, exercising their power under Section 42-A of the UPCH Act, after issuance of notification under Section 52 of the UPCH Act."

2. Analysis of Legal Provision

The core of this jurisdictional conflict lies in the interplay between two key statutory provisions: Section 42-A and Section 52 of the UPCH Act.

Section 42-A of UPCH Act, inserted in 1958, provides for correction of clerical or Arithmetical errors. This section empowers the Consolidation Officer or Settlement Officer, Consolidation, to correct clerical or arithmetical errors apparent on the face of the record in any document prepared under the Act. Crucially, the provision is prefaced by a non-obstante clause:

¹ WRIT - B No. - 33966 of 2016

"Notwithstanding anything contained in any law for the time being in force". The central issue is interpretative implications of the "non obstante" clause embedded within Section 42-A of the UPOCH Act and whether it confers an overriding effect that preserves the Consolidation Authorities' power of correction even subsequent to a Section 52 notification.

In contradistinction, Section 52 providing for closure of the Consolidation operation. Its Sub-section (1) states that the State Government issues a notification in the Official Gazette to declare consolidation operations closed once fresh maps and records are prepared under Section 27(1). Of equal importance is sub-section (2): "Notwithstanding anything contained in sub-section (1), any order passed by a Court of competent jurisdiction in cases of writs filed under the provisions of the Constitution of India, or in cases of proceedings pending under this Act on the date of issue of the notification under sub-section (1), shall be given effect to by such authorities, as may be prescribed and the consolidation operation shall, for that purpose, be deemed to have not been closed." This provision implies that certain ongoing proceedings can continue even after the closure notification.

Further complicating this jurisdictional landscape are the provisions of the UPLR Act. Section 27 of the UPLR Act, provides for the New Revenue records, where subsection (1) mandates the preparation of new revenue records after the final consolidation scheme. Whereas, subsection (3) clarifies that after a Section 52 notification, the Collector shall maintain these new records, and the provisions of the UPLR Act, relating to their maintenance and correction, *mutatis mutandis* apply. This sub-section, amended in 1963 and 1974, is often cited as the legislative intent to transfer all post-consolidation record maintenance responsibilities to the revenue authorities.

Furthermore, Section 28 of the UPLR Act, grants the Collector powers to correct maps, and some judgments assert that this power remains intact even for maps prepared by consolidation authorities, provided it does not involve re-adjudication of rights.

The pivotal antagonism is thus a question of statutory interpretation: Does Section 27(3) of the UPLR Act operate as a complete bar to Section 42-A of the UPOCH Act, or does the non-obstante clause of Section 42-A give it a perpetual, overriding effect for the limited purpose of correcting clerical errors?

3. Conflicting Judicial Precedents

This legal conundrum is amplified by a body of conflicting judicial precedents from the Allahabad High Court, which has resulted in a jurisprudential schism.

The Division Bench of Allahabad High Court in *Ram Bahadur vs. Deputy Director of Consolidation*² held that an application for setting aside an ex-parte order (which was filed after a Section 52 notification but for a right accrued prior to it was maintainable. It stated that the term "proceedings" in sub-section 2 of Section 52 of the Act 1953, is used in a comprehensive sense to include all proceedings from the Consolidation Officer to the appellate court. The notification under Section 52(1) does not destroy vested rights or prevent the exercise of the right of appeal, as appeals revive the original proceedings.

Conversely, in *Ali Khan vs. Ram Prasad*³, while the learned Single Judge referred this case concerning a different issue initially, the Division Bench in this case distinguished it and observed that after de-notification under Section 52, it was open to the appellants to get the map corrected by moving an application under Section 28 of the UPLR Act, implying the revenue court's jurisdiction.

In *Raja Ram vs. Deputy Director of Consolidation*⁴, the learned Single Judge case held that in terms of Rule 109 A read with Section 52(2) of the Act, the consolidation authorities have no power to correct the error after the notification under Section 52 of the Act.

The two division benches of the Allahabad High Court have taken a contrary view on this issue which has given rise to the current central issue, in the case of *Gafoor vs. Additional Commissioner*⁵, an application to the Sub-Divisional Officer for map correction after Section 52 notification was rejected. The Division Bench held that the Collector has power under Section 28 of the UPLR Act to correct maps prepared by consolidation authorities, provided it doesn't involve rights and titles already adjudicated. This also supports the transfer of jurisdiction to revenue authorities.

² 1974 RD 53 (DB),

³ 1981 RD 77 (DB)

⁴ 1982 AWC 437

⁵ 1979 RD 76 (DB)

To further muddy the waters, the Division bench, in *Mukhtar vs. Deputy Director of Consolidation*⁶, took a contrary view to earlier judgments. The court disagreed with *Raja Ram*⁷ and explicitly held that after notification under Section 52, the Consolidation Authority can correct records. The Court highlighted that the scheme of the Consolidation Act is distinct from the Civil Procedure Code; the duty to implement orders rests with the Consolidation Authorities themselves, and no obligation is cast on the beneficiary to apply for implementation within a limitation period. It deemed that proceedings are considered pending until the orders are finally implemented, even if a Section 52 notification has occurred.

The jurisprudential principle on the issue of conflicting decision by the division bench has been well established, in *Acharaya Maharajshri Narandraprasadji Anandprasadji Maharaj Vs. The State of Gujarat and others*⁸, it was held that it is not open to a Division Bench to decide the correctness of the views of another Division Bench of the same strength. The principal was further elucidated in *Central Board of Dawoodi Bohra Community vs. State of Maharashtra and another*⁹, which established that in cases of disagreement between bench of coequal strength, the appropriate recourse is to refer the matter to a larger quorum. The multiplicity of conflicting Single and Division Bench judgments has necessitated the present reference to a Full Bench, a testament to the persistent and unresolved nature of the issue.

4. Analysis & Commentary

The conflicting views on this matter can be distilled into two primary arguments:

a. The Purposive Interpretation: Jurisdiction Vests Exclusively with Revenue Authorities Post-Section 52

This perspective argues that the legislative intent behind Section 52 of UPOCH Act is to bring an absolute and definitive end to the consolidation process. The issuance of the notification signifies a clear transfer of responsibility for land records from the specialized consolidation machinery to the general revenue administration.

⁶ 1993 (3) AWC 1549

⁷ 1982 AWC 437

⁸ 1975 (1) SCC 11

⁹ 2005 (2) SCC 673

Section 52 of the UPOCH Act marks the definitive end of consolidation operations. This legislative declaration of closure is meant to provide finality and certainty to land records. Allowing consolidation authorities to revisit records after this point, even for clerical errors, would undermine the purpose of consolidation. The Act's comprehensive objection and appeal process is designed to fix all errors before the final notification. Section 52 is intended to transfer responsibility for land records back to the regular revenue administration, and any other interpretation would create perpetual jurisdiction for an authority whose work is officially finished.

Section 42-A's non-obstante clause is intended to ensure consolidation authorities can correct errors during proceedings, not indefinitely afterward. If it were a permanent power, the legislature would have stated so explicitly or placed it within the UPLR Act. The Act's structure indicates that after the Section 52 notification, the specialized consolidation authority's jurisdiction ends, and the UPLR Act takes over all record matters.

Section 52(3) explicitly states that after consolidation, the UPLR Act, governs the maintenance and correction of land records. This is a clear legislative directive, establishing the revenue authorities' jurisdiction post-consolidation. Allowing consolidation authorities to continue exercising power under Section 42-A would create conflicting jurisdictions. The intent is to transition to a single system, with the special law of consolidation yielding to the general law of revenue administration once its specific purpose is fulfilled.

The core purpose of consolidation is to achieve finality and certainty in land records, reducing disputes. Allowing indefinite corrections under Section 42-A after Section 52 would defeat this purpose, creating perpetual uncertainty and litigation. The inconvenience of using revenue courts for corrections is a necessary trade-off for achieving the finality and stability that benefits all landowners.

b. The Beneficial Interpretation: Consolidation Authorities Retain a Limited Jurisdiction Post-Section 52 Notification

The power to correct errors is based on the legal maxim "*actus curiae neminem gravabit*"¹⁰ (an act of Court shall prejudice no man). Unlike the Civil Procedure Code, which requires parties to initiate execution, the Consolidation Act assigns the responsibility of enforcing orders

¹⁰ Sree Balaji Nagar Residential Association vs. State of Tamil Nadu 2015 (3) SCC 353

directly to the Consolidation Authorities. As a result, any process to correct revenue records based on such orders must be considered ongoing until the corrections are fully carried out.

Section 42-A's "non-obstante" clause, "Notwithstanding anything contained in this Act or in any other law for the time being in force...", establishes its supremacy. This clause allows it to override other conflicting laws, including those that suggest finality after a Section 52 notification. The addition of Section 42-A in 1958 indicates that the legislature intended to address a specific issue that arose after the consolidation process had officially concluded. Rather than relying on the more cumbersome process of the UPLR Act, the legislature empowered consolidation authorities to make these corrections. This highlights their continued, though limited, role in ensuring the accuracy of records even after the consolidation is complete.

Section 42-A addresses clerical and arithmetical errors, not complex title disputes. These errors are simple mistakes in transcription or calculation. Making landowners go through a full court process for such errors would be an undue burden, causing delays and increasing costs. Section 42-A provides a quick, effective remedy, allowing the authorities who made the records to correct them, which prevents unnecessary litigation and upholds public trust.

Modern jurisprudence favors a beneficial interpretation of statutes like the UPLR Act. Denying a simple way to correct obvious errors just because the Section 52 notification has been issued would be regressive. The consolidation process, while aiming for finality, isn't infallible. The finality of Section 52 should concern the substantive rights, not clerical mistakes. The power under Section 42-A is essential for ensuring the records' integrity and preventing injustice, even after the formal conclusion of the process.

The doctrine of *Ut Res Magis Valeat Quam Pereat* suggests laws should be effective, not meaningless. The Court must avoid construction of statute which makes it irrational. Rather, it must make a construction which makes it constitutionally valid rather than making it void.¹¹ The Court should favor an interpretation that gives purpose and significance to the Legislature's words, rather than one that renders them meaningless or ineffective.¹² If Section 42-A cannot be used to correct errors after Section 52, it becomes pointless for mistakes

¹¹ K.P. Varghese v. ITO [1981] 131 ITR 597 (SC)

¹² CIT v. R.M. Amin [1977] 106 ITR 368 (SC)

discovered later. A correct interpretation, allowing consolidation authorities to rectify post-Section 52 errors, honors the legislative intent of Section 42-A as a continuous corrective tool.

5. Conclusion

After extensive deliberation, it can be inferred that it would have been more appropriate for the Consolidation Authorities to decide matters related to map correction, as they are the original preparing authorities and inherently better placed to correct their own clerical mistakes. Resorting to Revenue Authorities would entail a lengthy process, requiring fresh adjudication from the beginning. While the State argues that practical difficulties exist, such as the lack of permanent record rooms and infrastructure with the Consolidation Authorities it is imperative that direction must be issued to the executive and the legislature to resolve these gaps. Consolidation Authorities not only settle minor disputes and consolidate holdings but also handle mutation and partition proceedings. Therefore, retaining records within these authorities is not just necessary, but essential.

This protracted litigation, while ostensibly about a procedural matter, has profound implications for the right to property of thousands of landowners. The lingering question I pose is this: had this been a matter of high-stakes commercial litigation or a matter of national importance like the IBC, would such an issue have been allowed to fester for nearly a decade? The answer, I fear, is no. The judiciary, as the custodian of justice, must recognize that the principles of urgency and equal access to justice are not a privilege reserved for commercial matters. Justice must be accessible to all, not just to those with the resources and connections to navigate a protracted and uncertain legal labyrinth.