



Consolidation Of Holdings In Uttar Pradesh: An Instrument For Achieving Food Security

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ABSTRACT

Fragmentation of agricultural holdings resulted from successive land reform measures and partition in joint families lead to the formation of uneconomic holdings. It is believed that land fragmentation would result in optimal crop choice and sub-optimal usage of factor inputs i.e. technically inefficient usage, all of which would in turn lead to less than sustainable incomes for farmers and a resultant would pose a threat to food security. Therefore, various Commissions have suggested for the Consolidation of Holdings to make the scattered plots more compact. Pre and post independent India witnessed various consolidation legislations passed by different States. Consolation was crude and voluntary in the beginning, but later it was regulated by democratic legislation. Amongst various States, the legislation passed by the Punjab and Uttar Pradesh seems to be very efficient. Uttar Pradesh Consolidation Holdings Act, 1953 has been passed to consolidate the scattered agricultural holdings in Uttar Pradesh for the development of agriculture in general and attaining food security in particular. The 1953 Act, though has achieved its goal up to some extent, but it fails in other fronts. This article is an honest attempt to critically discuss the consolidation operation in India with special reference to Uttar Pradesh Consolidation Holdings Act, 1953.

INTRODUCTION

In developing economies such as India, land reform legislations play a vital role in achieving socio-economic justice as envisaged in Indian Constitution. However, some of the side effects of land reforms are reduction in the farm size and fragmented pattern of holdings of land. It is believed that land fragmentation would lead to less-than-optimal crop choice and sub-optimal usage of factor inputs i.e. technically inefficient usage, all of which would lead to less than sustainable incomes for farmers and a resultant rise in

all poverty estimates¹. Holdings in our country are too small and further, amongst them at least one-third of the cases are

¹ The impact of fragmentation on yield and productivity has been examined by Carlyle (1983), Heston and Kumar (1983), Bentley (1987), Blarel *et al* (1992) and Jabarin and Epplin (1994). Also see Bui, T., 1999 Decision Support Systems for Sustainable Development. In Kersten, G., Mikolajuk, Z., Yeh, A., (Ed.) Decision Support Systems for Sustainable Development: A Research Book of Methods and Applications. International Development Research Centre, Ottawa, 1-10.

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further subject to fragmentation and are scattered in tiny plots over the whole arable area of the village. The Royal Agricultural Commission Report, 1928 highlights the cause and problems of Fragmentation of Holdings. The Report says:

“Fragmentation amongst the right-holders holding is chiefly not due to the laws of inheritance but to the customary methods by which the law as to division of property amongst the heirs is carried into effect. The distinction becomes important when we come to discuss proposal for legislations designed to check the evil, for it is one thing to alter a method of partition and quite another to alter the law on which the partition is based. The custom in dividing property among heirs is to give to each heir a proportionate share of each item of the inherited property and not a share of whole equivalent to his portion. Thus, if a father with three isolated fields of one acre each dies leaving three sons, the later will not take one field each but one third of each field each. The custom is due to the fact that each plot of land may vary in quality, and so to secure equitable division each plot must be divided...in the result, successive generation descending from a common ancestor inherit not only smaller and smaller shares of his land but inherit that land broken into smaller and smaller plots. This continuous partition of each field amongst heirs leads to what is known as fragmentation, as the holding inherited is scattered throughout the village area.”²

The Committee further observed:

Fragmentation involves endless waste of time, money and effort; it restrains the cultivators from attempting improvements; it enforces uniformity cropping, and especially restricts the growing of fodder crops in the period when the cattles are usually sent out to graze on the field. The total effects are great and it is only when the burden is removed that the full results this evil practice has produced are revealed.”³

From the above report it is clear that fragmentation of holdings makes it uneconomical and hinders the state's progress⁴. Therefore, it is suggested that the scattered plots need to be converted into a compact parcel by consolidation. The advantages resulting from consolidation of holdings are

2 Report of the Royal Commission on Agriculture in India, 1928 at p.133; The Allahabad High Court in *Ram v. Deputy Director Consolidation*, AIR 1959 All 525 at p. 526 through Mr. Justice Dhawan who observed thus:-

“The qualification was absolutely necessary in view of the fact that the process of compulsory consolidation is a very difficult and complicated one in peculiar conditions prevailing in this State. Fragmentation of holding has through a process of centuries, reached such a stage that there is no straight road back towards consolidation.”

3 *Id.* At p.134.

4 Bentley, W., 1987. Economic and ecological approaches to land fragmentation: In defence of a much-maligned phenomenon. Annual Review of Anthropology, 16, 31-67.

intended to encourage the development of agriculture and larger production of grain which is necessity of the day.⁵ Sir Mani Lal B. Nanavati, a member of the Famine Enquiry Commission observed⁶:

“Uneconomic holdings also constitute a serious obstacle to efforts to increase the productivity of land. The cultivator, who lives on the margin of subsistence, cannot be expected to possess the resources for increasing the outturn on his crops by the addition of improved farming practices requiring capital. From this point of view, it is desirable to take steps to prevent a further increase in the number of uneconomic holdings.”

The Royal Commission on Agriculture in India finally suggested that there was a need to consolidate the scattered plots to make them economical. “Consolidation” involves the concentration of scattered parcels of land belonging to the same owner in a single block or at any rate in a smaller number of parcels.⁷The benefits of consolidation are of many folds as mentioned under the Statement of Objects and Reasons⁸ of the Uttar Pradesh Consolidation of Holdings Act, 1953:

“After the enforcement of the U.P. Zamindari Abolition and Land Reforms Act, 1950, there was a pressing demand for the consolidation holdings in the State. Since the complicated and numerous types of tenures, proprietary and cultivator, the greatest stumbling block in the way of successful consolidation of Holdings, have been abolished it is an opportune time to start this work. The advantages of having compact blocks all the lands farmed by one family need only be briefly mentioned. Boundary lines would be reduced in number and extent saving land and diminishing boundary disputes, larger fields would be possible and time saved in making trips to the fields, Further, if land were all in one piece, barriers, such as fences, hedges and ditches could be erected to obtain privacy and prevent trespassing, thieving and gleaning. The control of irrigations and drainage water would be easier: control of Pests, insects and diseases would also be less difficult.”

The chief advantage of the of the system of non-contiguous plot is that it prevents some farmers having all good land and others all inferior land adopted only to one crop. In carving out *chaks* it is quite possible that a tenure-holder may get all bad quality land where he cannot grow more than one crop

5 Per Wanchoo, J. in *Attar Singh v. State of U.P.* AIR 1959 SC 564 at p. 565. Also see Brundtland, G., 1987. Our Common Future. World Commission on Environment and Development (WCED). Oxford University Press, Oxford.

6 Famine Enquiry Commission Report 1945 at p. 245.

7 *Bhaguwati Prasad v. D.D.C., Varanasi*, (1997) 3 ALR 105, it was held that the purpose of the Consolidation Act is to consolidate the land of tenure-holders situated at different places. in one compact plot for better cultivation.

8 The Statement of Objects and Reasons of the original Act was published in U.P. Gazette Extraordinary, dated March 7, 1953

others may be put to very advantageous position. But the agrarian economists have remarked that such disadvantage can be outweighed by the advantages given to a tenure-holder under the Consolidation of Holdings Act, A system of dispersed or scattered holdings is obviously wasteful of labor; consolidation would lead to more intensive cultivation and help in the better tending and protection of crops.

Origin And Development

Consolidation of holdings traces its origin in the ancient era but it was crude. It is evident from the writing of the Chinese sage *Mercuis* in the fourth century BC, who had proposed that the logical division of rural land into square units and suggested that small villages be composed of nine such units⁹. But the first conception of land consolidation began in 1343, in the region of Bavaria in Germany, when monks spontaneously exchanged parcels in the village of Oberalteich.¹⁰ The first land rearrangement began in fourteenth century in Finland in response to the King's taxation system.¹¹ Although the concept of land consolidation began early in the fourteenth century, legislation was only adopted some centuries later. The first land consolidation legislation emerged in the middle of the eighteenth century. In particular, in Sweden, a land consolidation law was promulgated in 1749¹² while the first land consolidation began in 1757 covering most of agricultural land¹³. In Denmark, the first Consolidation Act was introduced in 1781 although it was not completed until 1805¹⁴. In *Britain*, land consolidation took place so long ago, that many writers and even experts, tend to forget that it took place at all.¹⁵ The 'enclosure' that started in the

9 King, R., and Burton, S., 1989. Land ownership values and rural structural change in Cyprus. *Journal of Rural Studies*, 5 (3), 267-277.

10 Van Dijk, T., 2003. Dealing with Central European Land Fragmentation. Eburon, Delft.

11 Uimonen, M., 2004. Actual Developments of Land Consolidation in Finland. Proceedings of Symposium on modern land consolidation, Volvic, France, September 10-11.

12 Meha, M., 2004. Land Consolidation in Kosovo and its Impact on Rural Development. Proceedings of Symposium on modern land consolidation, Volvic, France, September 10-11.

13 Backman, M., Osterberg, T., 2004. Land Consolidation in Sweden. Proceedings of Symposium on modern land consolidation, Volvic, France, September 10-11.

14 Van Dijk, T., 2003. Dealing with Central European Land Fragmentation. Eburon, Delft.

15 Bullard, R., 2007. Land Consolidation and Rural Development. Papers in Land Management. Anglia Ruskin University.

fifteenth and sixteenth centuries, was the action of the lord of the manor to enclose common land. The wholesale action of enclosure took place in the eighteenth and nineteenth centuries, supported by the Enclosure (Consolidation) Act of 1801¹⁶. This Act, together with others that followed, continued until 1862 when attempts at the registration of title were first introduced, which effectively ended the process of enclosure. Between 1700 and 1845, about six million hectares, a quarter of the arable land were enclosed, with 1.4% of land owners owning 87.1%. An example of the original Open Three Field System, based on three fields, each divided into three strips individually allotted each year, can still be seen as a remaining example at the Laxton Estate in Nottinghamshire.¹⁷ The expanding of rural development concepts in between 1960 to 1980, led to a proportional shift from traditional land consolidation to modern land consolidation¹⁸. In the historical view the process of land consolidation originated as a tool to reduce fragmentation and to implement re-distributive land reform. During the time, this traditional use has transformed to 'improvement of structure' rather than reduction of fragmentation.

In India, the population growth, inheritance laws led to tiny, scattered land plots (fragmentation), making farming inefficient, costly and machinery use impossible and thereby made the holdings uneconomical. So, in order to amalgamate these fragments into one compact block for better management, irrigation, and mechanization, boosting productivity, land consolidation laws were felt necessary. Land consolidation in India began in post-independence era to meet the challenges of increasing land fragmentation and to create compact plots to convert uneconomic holding to economic holdings. Some states like UP, Punjab, Haryana achieved success in this regard. Initially, these states shifted to voluntary consolidation, but its limited success led the National Commission on Agriculture to recommend making it compulsory. Though, Vinoba Bhave's movements encouraged voluntary land donation (Bhoodan) and collective ownership (Gramdan), creating moral pressure but limited broad success. Prime amongst the legislations is Uttar Pradesh Consolidation of Holdings Act, 1953.

In Uttar Pradesh the first attempt was made to consolidate the holding was the Uttar Pradesh Tenancy Act, 1939, in which the Consolidation was voluntary. A tenure holder had to apply to Assistant Collector in Charge of the sub-division for voluntary consolidation.¹⁹ But the Act could not achieve

16 *Id.*

17 *Id.*

18 FAO, 2003. The design of land consolidation pilot projects in Central and Eastern Europe. FAO, Rome.

19 UP Tencacy Act, 1939: Section 53(1) A person who wishes to consolidate the area which he cultivates or to build a house or to obtain land to increase the amenities of his house may apply to the Assistant Collector in charge of the sub-division to exchange the whole or any portion of the land

its desired goal because the consolidation was voluntary in nature. Then, the land revenue officers of Uttar Pradesh visited Punjab to learn the working of the consolidation under the East Punjab (Consolidation and Prevention of fragmentation) Act 1948. These officers suggested the State government to draft a Bill on Consolidation. As a consequence, the Uttar Pradesh Consolidation of Holdings Act, 1953 was enacted. The enactment of this Act was also influenced by the Report of the Famine Enquiry Commission.²⁰

The working of the Uttar Pradesh Consolidation of Holdings Act, 1953, has revealed certain shortcomings. There is a public demand in certain areas for recognition of consolidation which might have already been carried out by the tenure holders voluntarily. Since the Jurisdiction of *bhumidhar* is being transferred to Revenue Courts, it has become necessary to do away with the provisions of Arbitration

which he cultivates for land cultivated by another person. (2) On receipt of an application under the provisions of sub-section (1), the Assistant Collector shall, if he is satisfied that reasonable grounds exist, grant such application either in whole or in part, and allot to such other person, land which is cultivated by the applicant and which is approximately equal in value to, and is of the same quality as the land received by the applicant. (3) After orders have been passed under the provisions of sub-section (2), each person shall have, in respect of the land which he receives in exchange, the same right as he had in the land which he gives in exchange, and the Assistant Collector shall order that the appropriate entry be made in the record of rights. (4) No order shall be passed under the provisions of this section, - (a) in respect of land cultivated by a non-occupancy tenant, or (b) for exchange of land between persons, unless they are landlords or are under-proprietors, permanent lessees or tenants of the same land-holder or stand to one another in the relation of land-holder and under-proprietor, permanent lessee. (5) A land-holder, who is not a party to the exchange may file an objection, and the Court shall consider such objection before passing orders on the application. (6) Notwithstanding anything in any law for the time being in force if the land allotted in exchange for other land is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and shall attach to such other land or to such part of such other land as may be specified by the Assistant Collector and, thereupon, the lessee, mortgagee or other encumbrances shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance was transferred.

20 The Famine Inquiry Commission of 1880, chaired by Sir Richard Strachey, was the first major British Indian commission formed after the devastating 1876-78 famine to establish principles for future famine relief and prevention, recommending a Famine Code with state intervention, adjusted wages, revenue suspension, and irrigation and preventing food trade interference.

which used to cause delay. To inspire greater confidence in the people in the adjudication of rights by & consolidation authorities it is proposed to provide for a Second Appeal and a Revision against the order of Consolidation Officer. The present valuation of plots and rent rates has not been found satisfactory²¹. It is now proposed to provide for valuation of plot on the basis of productivity, availability of irrigational facility and location etc. in consultation with the Consolidation Committee. Up till now there was no provision or the management of land contributed for public purpose. Exclusion of plots of special value having cultivation of Pan, Rose, Bela, Jasmine and Kewra etc. from consolidation operation has also been found necessary. With a view to provide for the above and remove a few more, the Uttar Pradesh (Consolidation of Holdings) Amendment Act, 1958 was enacted.

Meaning And Definition Consolidation Of Holdings

Many attempts are being made to define consolidation of holdings. Fundamentally, land consolidation means to make a new allotment of cadastral parcels²². It can also be defined as an activity or an instrument that is implemented in order to consolidate fragmented agricultural holdings or, in other words, to unite the scattered parcels of the distinct farms²³. Some say that it is a reallocation of holdings by pooling and redistribution²⁴, while others say that land consolidation is a locally supported voluntary procedure for establishing a new spatial allocation ownership and/or use within a predefined area²⁵. Essadiki says land consolidation as an operation which aims at the improvement of land cultivation by replacing the existing scattered division of the land into many parcels, with a new division of characterized by smaller number of parcels,

21 For land valuation see generally German, J., Robinson, D., Youngman, J., 2000. Traditional methods and new approaches to land valuation. Lincoln Institute of Land Policy. LandLines, 12, (4).

22 Uimonen, M., 2004. Actual Developments of Land Consolidation in Finland. Proceedings of Symposium on modern land consolidation, Volvic, France, September 10-11.

23 Sonnenberg, J., 2002. Fundamentals of Land consolidation as a Instrument to Abolish Fragmentation of Agricultural Holdings. Proceedings of the XXII International FIG Congress, Washington, D.C., USA, April 19-26.

24 Falkgard, S., Sky, P., 2002. Mediation as a Component in Land Consolidation. Proceedings of the XXII International FIG Congress, Washington, D.C., USA, April 19-26.

25 Van Dijk, T., 2003. Dealing with Central European Land Fragmentation. Eburon, Delft.

larger in size, easily accessible and suitable for cultivation by machinery.²⁶

According to Food and Agricultural Organization Land consolidation is a term traditionally used to refer to measures to remove the effects of fragmentation by adjusting farm structures. But the term goes well beyond the narrow, yet important, actions of the re-parcelling of land to remove fragmentation. Land consolidation has long been associated with broader social, economic and environmental changes... As a result land consolidation has shifted from a narrow focus on agricultural structures to a broader focus of intergraded rural development²⁷.

According to Section 2 of the Uttar Pradesh Consolidation of Holdings Act, 1953, "Consolidation" means rearrangement of Holdings in a unit amongst several tenure holders in such a way to make their respective holdings more compact. In *Bhagawati Prasad v. DDC, Varanasi*, it was held that the idea behind the consolidation act is to consolidate that land of tenure holders situated at different places in one compact plot for better cultivation.²⁸

To sum up it can be said that land consolidation is a complex readjustment of land parcels²⁹ when their boundaries and location are changed according to a land consolidation plan prepared for a certain territory, with an aim to enlarge land parcels, to form rational land holdings of farms and to improve their structure, to establish necessary infrastructure and to implement other goals and tasks of the agricultural and rural development as well as environment protection policy.

Consolidation: *Modus Operandi* Under The Up Consolidation Of Holdings Act, 1953

In order to understand the *modus operandi* of consolidation of holdings, an effort has been made below to discuss the Uttar Pradesh Consolidation of Holdings Act, 1953:

26 Essadiki, M., 2002. New Method for Land Reallocation by Using a Geographic Information System. FIG XXII International Congress, Washington D.C. USA, April, 19-26.

27 FAO, 2008. Opportunities to Mainstream Land Consolidation in Rural Development Programmes of the European Union. FAO-Land Tenure Policy Series, Rome.

28 1997 RD 401.

29 See generally Doebele, W., 1982. Land Readjustment: A Different Approach to Financing Urbanization. LexingtonBooks, Canada, 225pp.

Declaration And Notification³⁰ Regarding Consolidation

First of all, the State Government may where it is of opinion that a district or part thereof may be brought under consolidation operations, make a declaration to that effect in the Gazette³¹, whereupon it shall become lawful for any officer or authority who may be empowered in this behalf by the District Deputy Director of Consolidation (i) to enter upon and survey, in connection with Rectangulation or otherwise and to take levels of any land in such area ; (ii) to fix pillars in connection with Rectangulation ; and (iii) to do all acts necessary to ascertain the suitability of the area for consolidation operations³²; and secondly, the District Deputy Director of Consolidation shall cause public notice of the declaration issued under clause (a) to be given at convenient places in the said district or part thereof³³. In *Attar Singh v. State of U. P.*³⁴, the validity of Section 4 was challenged before the Supreme Court of India as violating the provisions of Article 14 of the Constitution giving arbitrary powers to the State Government to make a notification. But the contention rose before the Supreme Court was repelled by the Hon'ble judges who held it to be *intra vires*. Every such notification shall be published in the Gazette and in a daily newspaper having circulation in the said area and shall also be published in each unit in the said area in such manner as may be considered appropriate.³⁵

The state government may reopen a consolidation operation in any unit even though it has been declared closed under

30 A Notification can be challenged on the ground of violating Article 14 of the Constitution. For details see *Ram Krishna Dalmia v Justice Tendolkar*, AIR 1958; The High Court cannot direct the consolidation authorities or the State in pursuance of a notification not to proceed with consolidation operation issued under Section 4 merely because the area concerned was allegedly unworthy of consolidation operation. *Deo Nath Kewat v. Deputy Director of Consolidation*, 1990 RD 177.

31 Section 4(1); in *Shyam Sunder v. Siya Ram* (AIR 1973 All 382), it was held that section 4 does not violate Article 14 of the Constitution.

32 Section 4(1)(a). However, as per section 6, where a notification has been cancelled in respect of any unit under sub-section (1), such area shall subject to the final orders relating to the correction of land records, if any, passed on or before the date of such cancellation, cease to be under consolidation operation with effect from the date of the cancellation.

33 Section 4(1)(a).

34 AIR 1959 SC 5647.

35 Section 4(2)(b).; The provisions for publication of the declaration are mandatory, and therefore, noncompliance with these provisions vitiates the entire proceedings, *Tajjammul Husain v. A. C.O Jalalabad*, 1959 ALJ 209.

section 52, if it is expedient in public interest so to do, it may make a declaration by notification in the Gazette that the such district or part thereof may again be brought under consolidation operation. However, no such declaration shall be issued within twenty years from the date of the notification referred to in the said section, but in special circumstances the State Government may, in public interest, issue such declaration after ten years from the said date³⁶

Effect of Notification under Section 4(2)

Upon the publication of the notification under sub-section (2) of section 4 in the official Gazette, till the publication of notification under section 52 the following consequences shall results namely³⁷:-

1 The district or part thereof, as the case may be, shall be deemed to be under consolidation operations and the duty of maintain the record-of-rights and preparing the village map. The field book and the annual register of each village shall be performed by the District Deputy Director of Consolidation; 2 notwithstanding anything contained in the U. P. Zamindari Abolition and Land Reforms Act, 1950, no tenure holder except with the permission in writing of the Settlement Officer, Consolidation, previously obtained shall use his holding or any part thereof for purposes not connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming;

(A)every proceeding for the correction of records and every suit and proceeding in respect of declaration of rights or interest in any land lying in the, area, or for declaration or adjudication of any other right in regard to which proceedings can or ought to be taken under this Act, pending before any court or authority whether of the first instance or of appeal, reference or revision shall on an order being passed in that behalf by the court or authority before whom such suit or proceeding is pending, stand abated.³⁸

36 Section 4(A).

37 Section 5.

38 Section 5(2)(a); Section 5(2) (as amended in 1966) does not apply to cases where the consolidation had already terminated before the section was amended. *Kacheru v. Board of Revenue*, 1971 AWR 774; Section 5(2) has no impact on writ petitions or special appeals arising out of suits or proceedings relating to declaration of rights in land covered by notification under Section 4: *Udai Bhan v. Board of Revenue*, 1974 ALJ 295; section 5 as amended by Act 21 of 1966 is *not ultra vires* as it does not affect the jurisdiction of the Supreme Court: *Ram Adhar Singh v. Ramroop Singh*, 1968 RD 83; When during the pendency of an appeal in a Court, a notifications under Section 4(2) is issued there is a statutory abatement of the suit and other proceedings pending there from. Even appeal before Supreme Court will abate: *Chhatar Singh v. Thakur Pd.*, (1975) 4 SCC 45; hot only the appeal but the suit itself shall abate: *Kamta Singh v. Ganesh Pd.*, 1967 RD 261; in *Darbari Lal v. Chokhey Lal*,

However, the evidence recorded in the abated suit or appeal and the findings given by the civil courts do not get wiped out. Therefore, unless contrary evidence was established, the consolidation authorities can go into such evidence and can rely upon such findings in support of its conclusions³⁹. It is pertinent to not that this section only refers to proceedings, suits, appeals revision but does not hit the writ jurisdiction of the High Court.⁴⁰ Similarly, in *Vijay Shankar Rai v. Vishwa Nath Rai*⁴¹ it was held that Section 5(2) has nothing to do with the constitutional powers of the High Court under Article- 226.

(b)Revision of Village Map, Field-Book and the Current Annual Register and Determination of Valuations and Shares in Joint Holdings

With a view to facilities the revision of records of each village or part thereof in the unit, the District Deputy Director of Consolidation shall, before the provisional consolidation scheme for a unit is prepared, cause to revise the village maps of such unit⁴². Further, he also revises the field-book of the unit after field-to-field *partal* and the current annual register after its test and verification. He also determines, in consultation with the Consolidation Committee, the valuation of each plot after taking into consolidation its productivity location and availability of irrigation facilities and all trees, wells and other improvements existing in the plots for the purpose of calculating compensation thereof. He ascertains the share

, 1968 RIJ 54; Where the decision of the Civil Judge had been allowed to become final between the parties the decree passed by the Civil Judge after publication of notification and after that fact had been brought to the notice of the Court, is not nullity: *Ram Audh Singh v. State of U.P.*, 1969 ALJ 748.) ; Consolidation authorities should not re-open the matter which has become final: *Rudra Pal Singh v. Ram Pal Singh*, 1971 RD 479; *Satish v. Lalta*, 1974 RD 379; There is no question of automatic abatement under Section 5(2)(a) of the C. H. Act. Material date is the date of passing the order for abatement. Such order for abatement will not take effect from the date of notification under Section 4 of the U.P.C. H. Act: *Ram Nath v. Puranmasi*, 1975 RD 152; Section 5(2) (a) does not postulate an automatic abatement of a suit or proceedings. It requires the passing of an order to that effect after hearing the parties: *Ram Charittar Singh v. Deputy Director of Consolidation*, 1992 RD 100; Where the second appeal was decided in ignorance of notification 'under Section 4 of the Act, the High Court could review and recall its order under Section 151 CPC *Hari Saran Singh v. Nand Kishore*, 1972 RD 54:

39 *Ram Prasad v. Assistant Director of Consolidation*, 1994 Supp (2) SCC 228.

40 Appeals revision but does not hit the writ jurisdiction of the High Court. *Brij Raj Saran v. Board of Revenue*, 1962 RD 315:

41 1967 RD 435.

42 Section 7.

of each owner, if there be more owners than one, out of the valuation determined under sub clause (b) of clause (ii) ; and (iv) determined the shares of individual tenure-holders in joint holdings for the purpose of effecting partition to ensure proper consolidation.⁴³

Basing on the above facts, the District Deputy Director of Consolidation shall cause to be prepared a “*khasra chakbandi*” in the form prescribed, in respect of all the plots falling in the unit and also a statement showing the mistakes undisputed cases of succession undisputed cases of succession and disputes discovered during the test and verification of the annual register in the course of the field-to field *partal*.⁴⁴

Preparation of Statement of Principles

The Assistant Consolidation Officer shall, in consultation with Consolidation Committee⁴⁵, prepare, in respect of each unit under consolidation operations, a statement in the prescribed form called the Statement of Principles, setting forth the principles to be followed in carrying out the consolidation operations in the unit.⁴⁶ The Statement of Principles shall also contain:

- 1 details of areas, as far as they can be determined at this stage, to be earmarked for extension of *abadi* including areas for *abadi* site for *Harijans* and landless persons in the unit and for such other public purposes as may be prescribed;
- 2 the basis on which the tenure-holders will contribute land for extension of *abadi* and for other public purposes;
- 3 details of land to be earmarked for public purposes out of land vested in a *Gaon Sabha* or a Local Authority under section 117 or section 117-A of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950; and
- 4 the standard plots for each unit.

Issue of Extracts and Notices for Inviting Objections

Upon the preparation of the records and the statements mentioned in sections 8 and 8-A, the Assistant Consolidation Officer, shall correct the clerical mistakes, if any, and send or cause to be sent to the tenure-holder concerned and other persons interested, notices containing relevant extracts from the current annual register and such other record as may be prescribed showing their rights in and liabilities in relation to the land; mistakes in undisputed cases of succession and disputes discovered under section 8 in respect thereof ; specific shares of individual tenure-holder in joint holdings

43 Sectuin8(1)

44 Section 8(2).

45 It is obligatory upon the Assistant Consolidation Officer to consult the Consolidation Committee while preparing the Statement of Principles. This provision is mandatory and it is the rule that non-compliance of a mandatory provision would vitiate the entire proceedings. *Tajammul Husain v. A. C.O., Jalalabad*, 1959 ALJ 209,

46 Section 8A.

for the purpose of effecting partitions, where necessary, to ensure proper consolidation ; valuations of the plots ; and valuation of trees, wells and other improvements for calculating compensation there or and its Apportionment amongst owners, if there be more owners than one.⁴⁷

He shall also publish in the unit the current *Khasra* and the current annual register, the *Khasra Chakbandi*, the Statement of Principles prepared under section 8-A and any other records that may be prescribed to show, *inter alia*, the particulars referred to in clause (a).⁴⁸

Any person to whom a notice under section 9(1) has been sent, or any other person interested, may, within twenty-one days of the receipt of notice, or of the publication under sub-section (1), as the case may be, file before the Assistant Consolidation Officer objections in respect thereof disputing the correctness or nature of the entries in the records or in the extracts furnished there from, or in the Statement of Principles, or the need for partition.⁴⁹

Disposal of Cases relating to Claims to Land and Partition of Joint Holdings and Statement of Principles

The Assistant Consolidation Officer shall where objection in respect of claims to land or partition of joint holdings are filed, after hearing the parties concerned ; and where no objections are filed, after making such enquiry as he may deem necessary, settle the disputes correct the mistakes and effect partition as far as may be by conciliation between the parties appearing before him and pass orders on the basis of such conciliation.⁵⁰ All cases which are not disposed of by the Assistant Consolidation Officer under sub-section (1), all cases relating to valuation of plots and all cases relating to valuation of trees, wells or other improvements for calculating compensation thereof, and its appointment amongst, co-owners, if there be more owners than one, shall be forwarded by the Assistant Consolidation Officer to the Consolidation Officer, who shall dispose of the same in the manner prescribed.⁵¹ Any party to the proceedings under section 9-A aggrieved by an order of the Assistant Consolidation Officer or the Consolidation Officer under

47 Section 9(1)(a).

48 Section 9(1)(b).

49 Section 9(2); This section is intended to make provisions for giving full opportunity to each and every tenure-holder to be heard in support of any objection he files before the Assistant Consolidation Officer. *Mukhtar Singh v. The State of U.P.*, 1956 ALJ 878; the Supreme Court has observed that this section is based on the principle of natural justice which requires that every party against whom an order is to be passed must be afforded an opportunity of being heard.” *Ch. Mukhtar Singh v. U.P. State*, AIR 1956 SC 231.

50 Section 9-A (1).

51 Section 9-A (2).

that section, may within 21 days of the date of the order, file an appeal before the Settlement Officer, Consolidation, who shall after affording opportunity of being heard to the parties concerned give his decision thereon which except as otherwise provided by or order under this Act, shall be final and not be questioned in any court of law.⁵²

Where objections have been filed against the Statement of Principles under section 9, the Assistant Consolidation Officer shall after affording opportunity of being heard to the parties concerned and after taking into consideration the views of the Consolidation Committee, submit his report to the Consolidation Officer who shall dispose of the objections in the manner prescribed.⁵³ Where no objections have been filed against the Statement of Principles within the time provided thereof under section 9, the Consolidation Officer shall, with a view to examining the correctness, make local inspection of the unit, after giving due notice to the Consolidation Committee and may thereafter make such modification or alterations in the Statement of Principles as he may consider necessary.⁵⁴ On a conjoint reading of Sections 9 and 9B of the Act, one way come to the conclusion that if no objection is filed against the statement of principles under Section 9 and the Consolidation Officer, does not *suo motu* make any modification or alteration in the statement of 'principles the same would become final'⁵⁵

Any person aggrieved by an order of the Consolidation Officer under sub-section (1), or sub-sections (2), may within 21 days⁵⁶ of the date of the order, file an appeal before the Settlement Officer, Consolidation whose decision except as otherwise provided by or under this Act, shall be final.⁵⁷ The word "final" as to be used in this context, means to be final for purposes of preparation of Consolidation Scheme⁵⁸. The finality given to the decision of the Settlement Officer (Consolidation) does not follow that it cannot be questioned in the writ jurisdiction of the High Court where there is an error apparent on the face of the record⁵⁹. The Consolidation

52 Section 11; Consolidation authorities have no jurisdiction to decide a dispute as to who is *mahant* of *math*. *Ram Kant Das v. DD.C.*, AIR 1970 All 542; Consolidation authorities have to deal with the title of the parties which came before them. They cannot deal with the title of such claimants who did not file any objection. *Gangotriy. D.D.C.*, 1972 ALJ 30,

53 Section 9-B (1).

54 Section 9-B (2).

55 *Chandrika Rai v. DDC Ghazipur*, 1995 RD 53

56 If the objector is not guilty of negligence or inaction or lack of *bona fide*, the delay in filing objection deserves condonation otherwise not. *Sankatha Singh v. Deputy Director of Consolidation*, 1983 ALJ 807.

57 Section 9-B (3);

58 *Ram Lal v. The Assistant Collector*; 1961 RD 310.

59 *Hari Vishnu Kamath V. Ahmad Syed Ishaque*, AIR 1955 SC 283,

Officer and the Settlement Officer, Consolidation shall before deciding an objection or an appeal make local inspection of the unit after giving due notice to the parties concerned and the Consolidation Committee.⁶⁰ It is pertinent to note that the consolidation authorities mentioned in Section 9-A have the full status of courts for the limited purpose of that section.⁶¹

Partition of Joint Holdings

The Assistant Consolidation Officer or the Consolidation Officer may partition joint holdings under section 9-A notwithstanding anything to the contrary contained in section 178 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, or any other law, and may also partition the same *suo moto*. (2) The partition of joint holdings shall be affected on the basis of shares, provided that there the tenure-holders concerned agree, it may be affected on the basis of specific plots.⁶²

Preparation and Maintenance of Revised Annual Registers

The Annual Register shall be revised on the basis of the orders passed under sub-section (1) and sub-section (2) of section 9-A. it shall thereafter be prepared in the form prescribed and published in the unit.⁶³ Where any entry in the annual register, published under sub section (1) is modified in pursuance of an order passed under this Act or under any other law, a reference to the order along with an extract of its operative portion shall be noted against the said entry.⁶⁴

(i) Preparation of Consolidation Scheme

A Consolidation Scheme shall fulfill the following conditions namely⁶⁵:

1 The rights and liabilities of a tenure-holder, as recorded in the annual register prepared under section 10, are subject to the deductions, if any, made on account of contributions to public purposes under this Act, secured in the lands allotted to him ;

2 the valuation of plots allotted to a tenure-holder subject to deductions, if any, made on account of contributions to public purposes under this Act, is equal to the valuation of plots originally held by him : Provided that, except with the permission of the Director of Consolidation, the area of the holding or holdings allotted to a tenure-holder shall not differ from the area of his original holding or holdings by more than twenty five per cent of the latter⁶⁶ ;

60 Section 9-B (4).

61 *Bijai Narain Singh v. State of U.P.*, 1969 ALJ 862:

62 Section 9-C.

63 Section 10(1).

64 Section 10(2).

65 Section 19.

66 Where the Deputy Director of Consolidation exercising the Director's power under Section 48(1) allotted

3 the compensation determined under the provisions of this Act, or the rules framed thereunder, is awarded to the tenure-holder for trees, wells other improvements, originally held by him and allotted to another tenure-holder; and for land contributed by him for public purposes ; to the *Gaon Sabha*, or any other local authority as the case may be, for development, if any, effected by it in or over land belonging to it and allotted to a tenure-holder ;and the principles laid down in the Statement of Principles are followed;

4 every tenure-holder is, as far as possible⁶⁷, allotted a compact area at the place there he holds the largest part of his holding : Provided that no tenure-holder may be allotted more *Chaks* than three except with the approval in writing of the Deputy Director of Consolidation : Provided further that no Consolidation made shall be invalid for the reason merely that the number of chalks allotted to a tenure-holder exceeds three⁶⁸ ;

5 every tenure-holder is, as far as possible, allotted the plot on which exists his private source of irrigation or any other improvement, together with an area in the vicinity equal to the valuation of the plots originally held by him there ; and every tenure-holder is, as far as possible, allotted *chaks* in conformity with the process of rectangulation in rectangulation units.

Preparation And Disposal of Objections Relating to Provisional Consolidation Scheme

The Assistant Consolidation Officer shall in consultation with the Consolidation Committee⁶⁹, prepare in the form prescribed, a Provisional Consolidation Scheme for the to a tenure holder a *Chak* having a difference of more than 25 percent in area, such allotment was held valid: *Shri Nath v. Deputy Director of Consolidation*, 1986 ALJ 940:

67 The Allahabad High Court has held that since the consolidation is a pressing necessity, it was necessary to add these qualifying words in this section, but it should be noted that these words do not render the principles ineffective or illusory: *Smt. Rani v. The Deputy Director of Consolidation, Bareilly*, 1959 RD (HC) 103; the words 'as far as possible' do not confer any jurisdiction upon the consolidation authorities to act arbitrarily, ignoring the provisions of Section 19(1) (e): *Samai Lal V. Deputy Director of Consolidation*, (1985) 3 LCD 354.

68 Notwithstanding the provisos to Section 19(1) (e), more than three *Chaks* can be allotted only in exceptional cases. There must be sufficient indication in the order of the Deputy Director allotting more than three *Chaks* to a tenure-holder to evidence application of his mind to this requirement. Omission to do so would vitiate the order, *Jagarnath V. Deputy Director of Consolidation*, 1980 AWC 613.

69 Omission to consult the members of the Consolidation Committee while preparing the Provisional Consolidation Scheme vitiates the Scheme. *Kedar Nath Singh v. Deputy Director of Consolidation*, 1982 RD 142.

unit.⁷⁰ Upon the preparation of the Provisional Consolidation Scheme, the Assistant Consolidation Officer shall send or cause to be sent, to the tenure-holder concerned and persons interested, notices containing relevant extracts there from the Provisional Consolidation Scheme shall thereafter, be published in the unit.⁷¹ Subject to the provisions contained in section 11-A any person to whom notice has been sent under sub-section (1), and any other person affected by the Provisional Consolidation Scheme disputing the propriety or correctness of the entries in the Provisional Consolidation Scheme, or in the extracts furnished there from, may within fifteen days of the receipt of the notice or of the date of the publication of the Consolidation Scheme, as the case may be, file an objection before the Assistant Consolidation Officer or the Consolidation Officer.⁷²

Further, Any person affected or any person having any interest or right in addition to the right of public highway in or over any public land or having other interest or right which is substantially prejudiced by the declaration made under sub-section (2) of section 19-A may within fifteen days after the publication of the provisional consolidation scheme, file an objection before the Assistant Consolidation Officer or the Consolidation Officer stating the nature of such interest or right.⁷³

All objections received by the Assistant Consolidation Officer shall, as soon as may be, after the expiry of the period of limitation prescribed therefore be submitted by him to the Consolidation Officer, who shall dispose of the same, as also the objections received by him in the manner hereinafter provided after notice to the parties concerned and the Consolidation Committee.⁷⁴ Any person aggrieved by the order of the Consolidation Officer under sub-section (1) may, within 15 days of the date of the order, file an appeal before the Settlement Officer, Consolidation, whose decision shall except as otherwise provided by or under this Act, be final.⁷⁵ It is pertinent to note that if during the course of the disposal of an objection or the hearing of an appeal the Consolidation Officer or the Settlement Officer, Consolidation, as the case may be, is of the opinion that material injustice is likely to be caused to a number of tenure-holders in giving effect to the provisional Consolidation Scheme, as prepared by the Assistant Consolidation Officer, or as subsequently modified by the Consolidation Officer, as the case may be, and that

70 Section 19-A.

71 Section 20(1).

72 Section 20(2).

73 Section 20(3).

74 Section 21(1).

75 Section 21(2). It is pertinent to note that the Consolidation Officer shall, before deciding the objections, and the Settlement Officer, Consolidation may, before deciding an appeal, make local inspection of the plots in dispute after notice to the parties concerned and the Consolidation Committee [Section 21(3)].

a fair and proper allotment of land to the tenure-holders of the units is not possible without revising the provisional Consolidation Scheme, or getting a fresh one prepared, it shall be lawful, for reasons to be recorded in writing for the Consolidation Officer to revise Provisional Consolidation Scheme after giving opportunity of being heard to the tenure-holders concerned or to remand the same to the Assistant Consolidation Officer with such directions as the Consolidation Officer may consider necessary and the Settlement Officer, Consolidation to revise the provisional Consolidation Scheme after giving opportunity of being heard to the tenure-holders concerned or to remand the same to the Assistant Consolidation Officer, or the Consolidation Officer, as the Settlement Officer, Consolidation may think fit, with such directions as he may consider necessary.⁷⁶

The Settlement Officer Consolidation shall confirm the provisional Consolidation Scheme if no objections are filed within the time specified in section 20; or where such objections are filed, after such modifications or alterations as may be necessary in view of the orders passed under sub-section (1) to (4) of section 21.⁷⁷ The provisional Consolidation Scheme so confirmed shall be published in the unit and, except as otherwise provided by or under this Act, shall be final.⁷⁸

Enforcement of The Scheme

The Settlement Officer, Consolidation shall fix the date to be notified in the unit from which the final consolidation scheme shall come into force. On and after the said date a tenure-holder shall be entitled to enter into possession of the plots allotted to him.⁷⁹ Consequently, on and from the date of obtaining possession every tenure-holder getting trees, wells and other improvements existing on the plots allotted to him in pursuance of the enforcement of the final consolidation scheme shall be liable for the payment of and pay to the former tenure-holder thereof, compensation for the trees, wells and other improvements allotted to him to be determined in the manner hereinbefore provided.⁸⁰

As soon as may be, after the final Consolidation Scheme has come into force, the District Deputy Director of Consolidation shall cause to be prepared for each village a new map filed-book and record-of rights in respect of the Consolidation area, on the basis of the entries in the map, as corrected under section 7, the *Khasra Chakbandi*, the annual register prepared under section 10 and the allotment orders as finally made and issued in accordance with the provisions of this Act.⁸¹ Where any clerical error has crept in preparation of the record-of-rights and the maps during the

76 Section 21(4).

77 Section 23(1).

78 Section 23(2).

79 Section 24(1).

80 Section 24(23).

81 Section 27;

consolidation operations and the consolidation authorities ceased to exist after the close of the consolidation operations the civil and revenue courts will again have the jurisdiction to look into such cases in accordance with Section 5 of the Act⁸².

The Assistant Consolidation Officer, on the application of the tenure-holder or the Land Management Committee, to whom *Chak* or lands have been allotted under the final consolidation scheme, may, and where any land has been allotted to the State Government shall, without any application of the State Government, within six months of the date on which the said Scheme has come into force, put the tenure-holder or the Land Management Committee or the State Government, as the case may be, in actual physical possession of the allotted *chak* or lands.⁸³

Where possession over standing crops is also delivered under section 28, the Assistant Consolidation Officer shall determine in the manner prescribed the compensation payable in respect of such crops by the tenure-holder put in possession. Any person aggrieved by an order under sub-section (1) may, within fifteen days of the date of the order, prefer an appeal before the Consolidation Officer, whose decision thereon, shall be final.⁸⁴

Where a tenure-holder from whom compensation is recoverable under this Act, fails to pay the same within the period prescribed therefor, the person entitled to receive it, may in addition to any other mode of recovery open to him apply to the Collector within such time as may be prescribed to recover the amount due on his behalf as if it were an arrear of land revenue payable to Government. Where any compensation payable under this Act is not paid whether in whole or in part within three months of the date of obtaining possession under section 24 or section 28, as the case may be, interest at the rate of 6 per cent per annum shall be charged on the amount not so paid.⁸⁵

The State Government shall fix the amount of costs of the operations conducted under the Act and shall recover from the tenure-holders of the unit such part thereof and in such manner as a may be prescribed. If the State Government so decides it may order that a specified amount be recovered in advance in the manner prescribed, as the first installment

82 *Jagannath v. Gauri Shawkar*; 1977 RD 67.

83 Section 28(1). Provided that the delivery of possession as aforesaid shall not affect the right of the person from whom possession is transferred to tend and gather the crops standing on such *chaks* or land or part thereof, on the date of the delivery, unless the Assistant Consolidation Officer decides, for reasons to be recorded that the possession over the crop also shall be delivered : Provided further that the person tending and gathering the standing crop, in accordance with the first proviso, shall be liable to pay to the person who has been allotted the *Chak*, or lands, compensation for the use of the land at such rate and in such manner as may be prescribed.

84 Section 29.

85 Section 29(A).

of the cost of the said operations. Any amount payable as costs under this section shall be recoverable as arrears of land revenue.⁸⁶

If any person destroys willfully or injures or removes without lawful authority a survey or boundary mark lawfully erected, he may be ordered by a Consolidation Officer to pay such compensation not exceeding one thousand rupees for each mark so destroyed, injured or removed, as may in the opinion of that officer be necessary to defray the expenses of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.⁸⁷

Revisions and Reference

The Director of Consolidation may call for and examine the record of any case decided or proceedings taken by any subordinate authority for the purpose of satisfying himself as to the regularity of the proceedings ; or as to the correctness legality or propriety of any order other than an interlocutory order passed by such authority in the case or proceedings and may, after allowing the parties concerned an opportunity of being heard, make such order in the case or proceedings as he thinks fit.⁸⁸ Power under sub-section (1) may be exercised by the Director of Consolidation also on a reference under sub-section⁸⁹. Any authority subordinate to the Director of Consolidation may, after allowing the parties concerned an opportunity of being heard, refer the record of any case or proceedings to the Director of Consolidation for action under sub-section (1)⁹⁰.

Mutual Exchange of Chaks Between Tenure-Holders

It shall be lawful for the Settlement Officer, Consolidation, at any stage of the consolidation proceedings but before the preparation of the final records under section 27, to allow mutual exchange of *chaks*, or part thereof by agreement between the tenure-holders, where he is satisfied that the exchange will improve the shape of *chaks*, or reduce their number and generally lead to greater satisfaction amongst them⁹¹.

Conclusions

Agrarian reforms were adopted in India not only after

86 Section 33.

87 Section 46.

88 Section 48(1).

89 Section 48(2).

90 Section 48(3); Consolidation authorities cannot review or recall their final orders: *Shivrajiv. D.D.C., Allahabad*, (1997) 3 ALR 680 (All) (FB).

91 Section 48-B.

independence but during the colonial regime also. These land reform measures empowered the farmers by improving their socio-economic condition as well as contributed towards nations development. One of the side effects of these reform measures were the fragmentation of land. One more factor contributed towards fragmentation of land was partition in joint families. Therefore, the Royal Agricultural Commission Report, 1928 pointed out at that time that most of the Indian plots were in fragmented or scattered. The Commission further pointed out that these fragmented fields were uneconomical and blocked nation's progress. The Commission also suggested to consolidate the scattered plots into a compact one to convert them into economical. Land consolidation means a comprehensive land reallocation procedure which, combined with the provision of public facilities for a defined rural area, improves the land tenure structure and promotes the land development of certain land use. Thus, consolidation consists of two main components: the *land reallocation* (or *land readjustment*) and land exchange. An efficient consolidation legislation is *sine qua non* for achieving the better result of consolidation. Therefore, various efforts are made in pre and post-independence India to enact a technically sound and pro-tenure holder consolidation legislation. Now all most every Indian State have its consolidation legislation. Amongst all, the legislations of Uttar Pradesh and Punjab seem to be efficient. Therefore, attempt was being made in this article to discuss the UP Consolidation of Holdings Act, 1953 in details.

The working of the UP Consolidation of Holdings Act, 1953 reveals that up to some extent it has achieved its goal in ensuring the socio-economic justice of the tenure holders. It has also succeeded to address the issue of food security in India. But at the same time, it fails in other fronts. To name them: Firstly, in some instances the Govt. fails to select the appropriate area for land consolidation implementation; secondly, the consolidation operation seems to be complex and slow process ; thirdly, the Act lacks an holistic approach covering social, democratic and environmental demands in the process under the umbrella of sustainable development; fourthly, amicable settlement of consolidation disputes has not been incorporated under the Act; and lastly, voluntary consolidation with government backing has not been given due importance. In order to achieve the maximum benefit from the consolidation, it is humbly suggested that the aforesaid defects should be addressed at the earliest.

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