



2026:AHC:61816

Reserved on 20.03.2026
Delivered on 25.03.2026
A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 10589 of 2026

Raj Kumar Verma and another

.....Petitioner(s)

Versus

The State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Anupam Kulshreshtha (Sr. Adv.) with Shatakshi Shukla, Madnesh Prasad Singh
Counsel for Respondent(s)	: C.S.C.

In Chamber

HON'BLE KSHITIJ SHAILENDRA, J.

THE ISSUE INVOLVED:- RECOVERY FROM LEGAL REPRESENTATIVES OF THE DEFAULTER UNDER INDIAN STAMP ACT, 1899

1. Heard Shri Anupam Kulshreshtha, learned Senior Counsel assisted by Ms. Shatakshi Shukla, Advocate appearing for the petitioners and learned Standing Counsel for the State-respondents.
2. This writ petition raises significant questions in relation to nature, validity and extent of recovery proceedings against legal representatives of a person, who died pending proceedings under Indian Stamp Act, 1899 ('the Stamp Act'). This issue revolves around consideration of various provisions from different enactments, as would be discussed.

Brief facts

3. The petitioners Raj Kumar Verma and Deepak Soni are sons of late Rakesh Kumar Verma. Their father purchased agricultural plots by registered sale deeds in the year 2020. Proceedings under Section 47-A of the Stamp Act were initiated against petitioners' father and by an order dated 12.05.2022, the Additional District Magistrate, (Finance and Revenue), Agra ('ADM') imposed deficiency and penalty upon the purchaser, the quantum is immaterial.

4. The ADM, in pursuance of order dated 12.05.2022, sent recovery certificate bearing D.R. No.213/22 in the year 2022 itself to the Collector/Tehsildar, Agra for recovery of the amount of Rs. 16,55,150/- from the petitioners' father.

5. Challenging the order dated 12.05.2022, the petitioners' father preferred a stamp revision before the Commissioner. Pending revision, he died and the petitioners got themselves substituted as revisionists in the memo thereof. They pressed their revision on merits, however, the same ended in terms of dismissal by an order dated 29.08.2025. Consequently, the recovery proceedings initiated in 2022 stood revived.

6. This petition has been filed praying for a writ of mandamus commanding the respondents not to take any coercive action against the petitioners for recovering the amount in pursuance of the order dated 12.05.2022 and recovery certificate bearing D.R. No.213/22 and also not to attach or sale the personal properties of the petitioners.

Submissions on behalf of the petitioners

7. Learned Senior Counsel has made submissions that though finality attached to the levy is neither being disputed nor is being challenged, the petitioners, being sons of the purchaser, cannot be subjected to coercive action in furtherance of recovery certificate. Submission is that since the petitioners have not received any movable or immovable property or

cash or ornaments etc. from their father, to which effect, separate affidavits have also been filed by both the petitioners along with the present writ petition, they are not liable to pay any amount.

8. It is further submitted that sale deeds have been declared as null and void in terms of a decree dated 28.10.2024 passed by the civil court in Original Suit No.896 of 2022 (Rakesh Kumar Verma v. Geeta Shukla and others) and, therefore, since no property stood transferred by the sale deeds executed in favour of the petitioners' father as the same have been declared as null and void, even that property has not been succeeded by the petitioners.

9. Further submission has been made that if the respondents are inclined to recover sums covered by the recovery certificate, they may undertake the exercise either by sale of the property covered by the sale deeds or by personal properties and funds of their late father but, under no circumstances, the petitioners can be coerced in furtherance of recovery certificate. Contention is based upon the provisions of Section 48 of the Stamp Act and Section 279 of the **Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950** ('the Act of 1950') and submission has been made that since duties and penalties under the Stamp Act can be recovered either by distress and sale of movable property of the person from whom the same are due or by any other process in force for the recovery of arrears of land revenue, issuance of recovery certificate against the petitioners is not the appropriate course. It is lastly submitted that Section 279 of the Act of 1950 provides for as many as six modes of recovery and any of the said modes could have been adopted by the respondents instead of chasing the petitioners to effect their arrest, as pleaded in the writ petition. In support of his submissions, reliance has been placed upon the following judgments:-

(i). Chandra Prabha Charitable Trust v. Additional Agricultural Income Tax Officer-I : 2008 (2) KerLJ 621;

(ii). Bhagwan Singh v. Saheb Singh : 2000 (1) AWC 151.

Submissions on behalf of the State respondents

10. *Per contra*, learned Standing Counsel has made submissions that the writ petition is not maintainable, inasmuch as, the orders imposing deficiency and penalty etc. have not been challenged and, therefore, mere challenge to the consequential recovery cannot be sustained. It is further submitted that the petitioners cannot avoid their liability to make payment merely on account of death of their father as the respondents are competent to recover the amount by adopting any of the modes for recovery prescribed under the law. Further submission has been made that vague pleas regarding not inheriting anything from their father have been raised in the writ petition and once the petitioners had got themselves substituted before the revisional Commissioner, submissions made that recovery cannot be made from them, cannot be accepted.

Discussion

11. Although, no prayer to quash recovery certificate has been made, in view of the relief claimed and the submissions made, this Court proceeds to consider the legal position relating to recovery under the Stamp Act against legal representatives of the purchaser, in general as well as in the facts of the case in hand.

12. An **“instrument”** has been defined under Section 2(14) of the Stamp Act so as to include therein ‘**every document by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded**’. Therefore, as to whether any right or liability is or is not actually created but the same purports to be created, it would fall within the meaning, import and definition of “instrument”.

13. Therefore, the mere fact that sale deeds executed in favour of petitioners’ father were subsequently declared as null and void under the decree passed by the civil court in O.S. No.896 of 2022, irrespective of the timing of institution or nature of the suit proceedings or the date and nature of the decree, declaration made by the civil court would be wholly irrelevant for the purposes of determining the liability in the proceedings

under the Stamp Act. Reference in this regard can be made to Division Bench judgment of this Court in **Kunwarpal Sharma and another v. State of U.P. and others : AIR 2003 Allahabad 7 (DB)**.

14. Since learned Senior Counsel has not emphatically based his arguments on the decree passed by the civil court and he very fairly admitted that by virtue of Section 2(14) read with Section 17 of the Stamp Act, chargeability of duty is referable to the date of execution of the instrument or a date prior thereto, the Court does not deem it appropriate to make further deliberations on this aspect.

15. In light of the submissions made, it would be necessary to refer Section 48 of the Stamp Act, which reads as under:-

“48. Recovery of duties and penalties- All duties, penalties and other sums required to be paid under this Act **may be recovered** by the Collector by distress and sale of the movable property of the person from whom the same are due, **or** by any other process for the time being in force for the recovery of arrears of land revenue. ”

16. Section 48, qua modes of recovery, uses the word **“or”**, therefore, the Collector is at his discretion to adopt any of the modes prescribed for recovery. However, the Court cannot ignore **Chapter X of the Act of 1950** which contains comprehensive provisions for recovery of sums as arrears of land revenue. For a ready reference, Sections 279, 280, 281, 282 and 293 of the Act of 1950 are reproduced as under:-

“279. Procedure for recovery of an arrear of land revenue.- (1) An arrear of land revenue may be recovered **by any one or more of the following processes-**

- (a) by serving a writ of demand or a citation to appear on any defaulter,
- (b) by arrest and detention of his person,
- (c) by attachment and sale of his movable property including produce,
- (d) by attachment of the holding in respect of which the arrear is due,
- (e) [by lease or sale] of the holding in respect of which the arrear is due,
- (f) by attachment and sale of other immovable property of the defaulter, [and],
- (g) by appointing a receiver of any property movable or immovable of the defaulter.

(2) The cost of any of the processes mentioned in sub-section (1) shall be added to and be recoverable in the same manner as the arrear of land revenue.

280. Writ of demand and citation to appear.-(1) As soon as an arrear of land revenue has become due, a writ of demand may be issued by the tahsildar on the defaulter calling upon him to pay the amount within a time to be specified.

(2) In addition to or in lieu of a writ of demand, the tahsildar may issue a citation against the defaulter to appear and deposit the arrears due on a date to be specified.

281. Arrest and detention.- Any person who has defaulted in the payment of an arrear of land revenue may be arrested and detained in custody up to a period not exceeding 15 days unless the arrears [including costs, if any, recoverable under sub-section (2) of Section 279] are sooner paid :Provided that no woman or minor shall be liable to arrest or detention under this section : [Provided further that no person shall be liable to arrest or detention for an arrear in respect of a holding of which he is not the bhumidhar merely because of his joint responsibility for payment of land revenue under Section 243.]

282. Attachment and sale of movable property. (1) The Collector may, whether the defaulter has been arrested or not, attach and sell his movable property.

(2.) Every attachment and sale under this section shall be made according to the law in force for the time being for the attachment and sale of movable property in execution of a decree of a civil court.

(3) In addition to the particulars mentioned in clauses (a) to (o) of [the proviso to sub-section (1) of Section 60] of the Code of Civil Procedure, 1908, articles set apart exclusively for the use of religious worship shall be exempted from attachment and sale under this section.

.....

293. Provisions of U.P. Act III of 1901 applied to applications and proceedings under this Chapter.-The provisions of Chapters IX and X of the United Provinces Land Revenue Act, 1901, as amended by this Act shall, insofar as they are not inconsistent with the provisions of this Act, apply to applications and proceedings made or taken under this Chapter.”

17. The Court is conscious of the fact that the sale deeds were executed in the year 2020 and, therefore, in view of Section 230 of **Uttar Pradesh Revenue Code, 2006** (**‘the Code, 2006’**) whereby the Act of 1950 stands repealed, it is the Code, 2006 that would apply. Sub-Section (2) of Section 230, being a saving clause, would not attract in the present case as the proceedings had not commenced prior to repeal of the Act of 1950 and, therefore, Court would deal with the provisions of the Code, 2006 so as to understand the applicability of one or the other provision thereof in relation to recovery of sums as arrears of land revenue.

18. **Chapter XII of the Code, 2006** contains provisions with regard to **“collection of land revenue”**. It would be appropriate to refer to certain provisions of this Chapter which have relevance to the controversy involved. The same are reproduced as under:-

“167. Defaulters. - Any land revenue due and not paid on or before the date specified in section 165 becomes there from an arrear **and the persons liable for its payment shall become defaulters.**

169. Writ of demand. - As soon as an arrear of land revenue has become due, a writ of demand may be issued by the Tahsildar **against the defaulter** calling upon him to appear or to pay the amount within a time to be specified.

170. Process for recovery of arrears.- (1) An arrear of land revenue remaining unpaid within the time specified in the writ of demand, may be recovered by any one or more of the following processes, namely-

- (a) by arrest and detention of the **defaulter**;
- (b) by attachment and sale of **his** movable property including agricultural produce;
- (c) by attachment of any bank account or locker of the **defaulter**;
- (d) by attachment of the land in respect of which the arrear is due;
- (e) by lease or sale of the land in respect of which the arrear is due;
- (f) by attachment and sale of other immovable property of the **defaulter**;
- (g) by appointing a receiver of any property, movable or immovable, of the **defaulter**.

Explanation. - **For the removal of doubts, it is hereby declared that two or more processes hereinbefore mentioned may be issued and enforced simultaneously or one after the other.**

(2) Sums of money recoverable as arrears of land revenue, but not due in respect of any specific land, may be recovered by processes under this section from any immovable property **of the defaulter** including any holding of which he is a bhumidhar.

173. Attachment of bank account and locker of the defaulter.-The attachment of any bank account of the defaulter shall, so far as possible, be made by serving a garnishee order on the manager in charge of the branch of the bank concerned in the manner laid down in Rules, 46, 46-A and 46-B of Order XXI contained in the First Schedule to the Code of Civil Procedure, 1908, and in the case of a locker hired by the defaulter, the same shall be sealed in the presence of such manager who shall, thereafter, await further orders of the Sub-Divisional Officer regarding preparation of inventory of its contents and their ultimate disposal.

174. Attachment of holding.-(1) The Collector may attach any land in respect of which any arrears of land revenue is due.

(2) Where the amount of arrears in respect of which attachment was made under sub-section (1) is paid, such attachment shall stand withdrawn.

(3) If the amount of arrears is not paid within a period of thirty days from the date of such attachment, the Collector may proceed in accordance with the provisions of section 175 or section 176, as the case may be.

179. Procedure of recovery. - For the purposes of collection of land revenue or other dues recoverable as arrears of land revenue, in accordance with this Chapter, the recovery officer shall follow such procedure as may be prescribed.”

181. Recovery proceedings against legal representatives etc.-(1) If at any time before or after the commencement of any proceedings for the recovery of any arrears of land revenue under this Chapter, **the defaulter dies, the proceedings (except arrest and detention) may be commenced or continued against the legal representatives of the defaulter as if the legal representatives were themselves be defaulter:**

Provided that such legal representatives shall be liable only to the extent of the property of the deceased which has come to his or her hands.

(2) Where any person has become surety for the amount due from the defaulter, he may be proceeded against under this Chapter as if he were himself be defaulter. “

19. A composite reading of the aforesaid provisions would indicate that payment becomes due to a **“defaulter” (Section 167)** and **legal representatives** of the defaulter also fall in the same category (**Section 181**).

20. There is no dispute about the legal position flowing from Section 29 (c) of the Stamp Act that in case of conveyance, the stamp duty is payable by the **‘grantee’**, i.e. **‘purchaser’** and, therefore, it was the petitioners’ father against whom the liability to pay proper stamp duty would lay. Reference, in this regard, can be made to Division Bench judgment of this Court in **Smt. Kanta Bakshi v. State of U.P. and others : 2019(6) ALJ 117 (DB)**. Admittedly, the petitioners, being sons of the vendee-Rakesh Kumar Verma, got themselves substituted as revisionists in the capacity of legal representatives of the deceased. As to what would be there status in recovery proceedings, can be understood from following discussion.

21. Section 3(16) of the Act of 1950, defines **“legal representative”** as under:-

“3(16) “legal representative” has the meaning assigned to it in the Code of Civil Procedure, 1908;”

22. Section 2(11) of C.P.C. defines ‘legal representatives’ as under:-

“2(11) “legal representative” means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;”

23. Word “estate” has been defined in 7th edition of **Blacks’ Law Dictionary** as the amount, degree, nature and quality of a person’s interest in land other property. 2. All that a person or entity owns, including both real and personal property. 3. The property that one leaves after death; the collective assets and liabilities of a dead person. 4. A tract of land esp. one affected by an easement.”

24. In view of the above, whatever real and personal property including assets and liabilities the petitioners’ deceased father had possessed with him during his lifetime, the same are now being represented by the present petitioners in the capacity of his ‘legal representatives’. Therefore, Section 181 of the Code, 2006 would come into operation and the proceedings of recovery would continue against the petitioners as if they themselves are the defaulters. The relevant question, however, arises for consideration is, as to the nature and extent, the petitioners would be liable to pay the sums due.

25. The proviso to sub-Section (1) of Section 181 clearly provides that the legal representatives shall be liable only to the extent of the property of the deceased which has come to their hands. **Therefore, though, as per Section 48 of the Stamp Act, the Collector may adopt any of the modes of recovery as prescribed under sub-section (1) of Section 170 against the petitioners, the same would, however, be subject to the rider contained under the proviso to sub-Section (1) of Section 181. That is to say that even if the recovery certificate is given effect to, the liability of the petitioners would be confined to the extent of the property of their deceased father which has come to their hands.**

26. Though the case of the petitioners is that they have not inherited any property, movable or immovable or cash or ornaments from their deceased father, the said aspect being a pure question of fact and requiring investigation and inquiry, it cannot be accepted at this stage, particularly in writ jurisdiction, that the petitioners have not succeeded anything from their father.

27. Further, since explanation to sub-Section (1) of Section 170 provides in clear terms that two or more processes indicated in sub-Section (1) may be issued and enforced simultaneously or one after the other and there are various other provisions under Chapter XII where, even the attachment of bank account and locker of the defaulter *vis-a-vis* attachment and sale of movable or immovable property of the defaulter is provided, the Court cannot, at this stage, confine recovery against the petitioners to one or the other mode. As a matter of fact and law, the respondents are well within their rights to give effect to the recovery certificate, however, keeping in mind the mandate of proviso to sub-Section (1) of Section 180, which squarely applies for legal representatives of the defaulter.

28. As to how recovery of debts can be made as arrears of land revenue, reference can be made to a judgment of Hon'ble Supreme Court in **Shyam Singh v. Collector, District Hamirpur, U.P. and others : 1993 Suppl (1) SCC 693** which arose out of a loan taken under **U.P. Agricultural Credit Act, 1973**. The Hon'ble Supreme Court dealt with the provisions of the Act read with Section 279 of the Act of 1950 and Section 51 and Order XXI Rule 30 C.P.C. relating to execution of money decree and held that right to realise the amount by following one or the other modes, separately or simultaneously, has to be recognized and on the facts of the said case, it was felt necessary to be decided as to whether simultaneous proceedings should be permitted against the debtor. The Hon'ble Supreme Court concluded with a direction to the creditor to ascertain the amount already recovered and if the total amount had not been realized, liberty was granted to the creditor to proceed with sale of land which had been mortgaged with the bank in accordance with the provisions of Act of 1973 read with Section 279(1) of the Act of 1950.

29. Insofar as the judgment in the case of **Chandra Prabha Charitable Trust** (supra) as relied upon by the counsel for the petitioners, is concerned, the same had arisen before the High Court of

Kerala from the provisions of **Kerala Agricultural Income Tax Act, 1991**, challenging an order of the statutory Tribunal confirming disallowance of deduction claimed towards estate duty. The Kerala High Court dealt with the provisions of Section 74 of the **Estate Duty Act, 1953**, according to which, estate duty is the first charge on the movable and immovable properties of the deceased and it was observed that it was not a personal liability of the successor to the estate and it was to be recovered, if not paid, by attachment and sale of movable and immovable properties of the deceased, in the form of estate duty. The matter was decided against the assessee and in favour of the State. The case in hand deals with different controversy arising from the provisions of the Stamp Act, 1899 and Code, 2006, especially Section 181 thereof and, hence, the judgment relied has no direct application in the present case.

30. Insofar as the other judgment relied in the case of **Bhagwan Singh** (supra) is concerned, a Co-ordinate Bench of this Court dealt with applicability of the **U.P. Debt Relief Act, 1977** to the legal representatives of a debtor when the debtor was not alive on the date of enforcement of the Act. The controversy was discussed in light of the fact that the mortgager of the land had died without redeeming the mortgage before enforcement of the Act and his legal representatives, i.e., the parties to the petition, inherited property of the deceased. In the said case, suit for recovery filed against the legal representatives was decreed and in execution proceedings, property of their father in the hands of legal representatives was sold in 1976, i.e., prior to enforcement of the Act of 1977.

31. In factual background of that case, it was observed that legal representatives merely represent the estate of the deceased debtor and Section 4 of the Act of 1977 discharges all debts of a debtor but not against his estate. It was further observed that the debt cannot be personally recovered from the legal representatives as they do not personally owe a debt and the debt can only be recovered from the

estate of a deceased debtor and the legal representatives, if the debtor was not alive on the commencement of the Act, are not entitled to the benefit of the Act and, accordingly, the petition was dismissed.

32. The facts of the present case as well as proceedings falling for adjudication rest on a different line and decision has to be taken on the parameters of Section 48 of the Stamp Act read with provisions of Act of 1950 and Code, 2006 and once the provisions are found unambiguous and the liability of the legal representatives '**as defaulters**' and also the mode and extent of recovery from legal representatives stand well recognized under the statutes, the answer in clear terms lies in the provisions as referred to hereinabove. Somewhat identical provisions are found under section 159 of the most widely applied fiscal statute **Income Tax Act, 1961**, wherein also, liability of the legal representatives, after death of the assessee, continues to remain alive until it is discharged as per the provisions of the said Act.

33. In view of the above discussion and taking care of the interest of both sides, **following directions** are issued:-

Liberty to the petitioners

(i). The petitioners are at liberty to file, within a period of **one month** from the date of this order, their **objections** before the Collector, Agra against recovery certificate bearing D.R. No.213/22 with supporting material and mandatorily annexing Income Tax Returns (ITRs) of their father, three years prior to his death and their own up-to-date ITRs filed after death of their father;

Obligation, duty and power of the Collector

(ii). The Collector, on receiving the objections, shall set up an **inquiry and investigation** to ascertain the correctness of the pleas taken in the objections, and, based upon reports and other material

collected, he shall call upon the petitioners to submit their response and fix a date of hearing of the objections;

(iii). The Collector shall, after affording reasonable opportunity of hearing to the petitioners, decide the objections on merits by passing a reasoned and speaking order and shall specifically deal with ITRs produced by the petitioners or that are made available to him by the Income Tax Department on his request within a period of **four months** from the date, a certified copy of this order is filed before him;

(iv). In case the Collector arrives at a conclusion regarding extent of liability of the petitioners to pay the sum covered by the recovery certificate in question, he shall proceed to recover the said amount from them forthwith by adopting one or the other measure prescribed under Section 170(1) of the Code, 2006;

(v). In case, after undertaking the exercise as directed above, sums under recovery certificate bearing D.R. No.213/22 are not fully recovered, the Collector shall be well within his rights to adopt any other mode of recovery, as provided under sub-Section (1) of Section 170 of the Code, 2006;

(vi). The Collector shall be competent to ascertain by all means, the financial transactions done after the death of petitioners' father Rakesh Kumar Verma and also the details of bank accounts held by him as well as the petitioners, by taking assistance of and services from any department or bank and such departments/banks will necessarily provide requisite aid to the Collector without fail.

Injunction against the petitioners

(vii). Since, public money is involved in the proceedings and demand under the recovery certificate bearing D.R. No.213/22 is alive and there may be likelihood that the petitioners, who are under statutory liability to satisfy the dues to the extent as per the

mandate of law, by invoking the underlying principles of Order XXXVIII of Code of Civil Procedure, 1908 and extraordinary discretionary constitutional powers under Article 226, it is directed that till the objections are decided by the Collector, Agra in furtherance of this order, the petitioners are **restrained** from creating any third party rights qua their movable and immovable properties as well as those which they might have inherited from their deceased father;

(viii). The petitioners are also restrained from further **withdrawing** any sums from any bank accounts over and above the sum covered by the recovery certificate bearing D.R. No.213/22, i.e., they will always maintain balance in their accounts at least equivalent to the impugned levy.

Protection in favour of the petitioners

(ix) In view of mandate of sub-Section (1) of Section 181 of the Code, 2006, till decision on the objections or for a period of four months from the date a copy of this order is filed before the Collector, whichever is earlier, **no coercive action** shall be taken against the petitioners and they **shall not be detained or arrested** in furtherance of recovery certificate bearing D.R. No.213/22.

34. The petition is **disposed of** with the above observations and directions.

(Kshitij Shailendra, J)

March 25, 2026
Jyotsana