

Court No. - 5

Case :- WRIT - C No. - 4815 of 1993

Petitioner :- Smt. Ved Bala

Respondent :- A..A. Admin M. Division

Counsel for Petitioner :- V.C. Srivastava, Atul Kumar Singh, M.S. Dikshit, Sankatha Rai, Sudhakar Shukla, V.K. Rai

Counsel for Respondent :- S.C.

Hon'ble Piyush Agrawal, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State.
2. By means of present petition, the petitioner is assailing the order dated 30.11.1992 passed by respondent no. 1 by which land of the petitioner has been declared as surplus land.
3. Learned counsel for the petitioner submits that show cause notice dated 1.3.1990 was issued for declaring surplus land of area 5-18-11 2/3 to which a detailed objection was filed by mentioning therein that gata no. 111 area 0-3-10 situated in village Wajidpur Sani has wrongly been included as surplus land and area 3-18-10 situated in village Saidpur is not irrigated land and is not being used as 'kast'; the land situated in village Bhojpur is not included along with the land of the petitioner while suit relating to the said land pending before the Board of Revenue has been decided in terms of the compromise. He further submits that after submission of reply three issues have been framed and same has been decided by order dated 29.4.1992 where it has specifically been held that petitioner got married in the year 1982 and land in question was transferred before marriage and the land of the petitioner cannot be included as surplus land; against the said order, the State has

preferred an appeal, which has been allowed by the impugned order dated 30.11.1992 without considering the material on record or any evidence to show that the petitioner got married in the year 1981 and not in the year 1982, therefore, the order is bad and he prays for quashing the same.

4. *Per contra*, learned Standing Counsel supports the impugned order and submits that petitioner has failed to bring on record any material to show that her marriage was solemnized in the year 1982 and when the petitioner is claiming the benefit of the same, the onus is upon the petitioner to administer through cogent material that her marriage was solemnized in the year 1982. He further submits that in order to save the surplus land, the said assertion has been made, therefore, he prays for dismissal of the present petition.

5. After hearing learned counsel for the parties, the Court has perused the records.

6. On perusal of the records, it shows that by order dated 29.4.1992, three issues were framed and after filing the reply, cross examination as well as written submissions, it was categorically held that the petitioner solemnized her marriage in the year 1982 and while passing the impugned order, the said finding has not specifically been reversed. Only on the basis of conjunctures and surmises, the impugned order has been passed where it has been held that the petitioner got married in the year 1981 and therefore set aside the order dated 29.4.1992, which was passed in favour of the petitioner.

7. Since the specific finding of fact recorded by the order dated 29.4.1992 has not been reversed with regard to solemnizing of marriage of the petitioner, the impugned order cannot be sustained

in the eyes of law.

8. In view of above discussions, the writ petition is **allowed**. The impugned order dated 30.11.1992 is set aside. The matter is remanded to respondent no. 1, who shall decide the same *de novo* without being influenced with any of the observations made herein above.

9. Since the matter is very old, it is expected from respondent no. 1 to decide the same, after affording due opportunity to all the stock holders, in accordance with law, by reasoned and speaking order, expeditiously preferably within a period of four months from the date of production of certified copy of this order before him.

10. Learned counsel for the petitioner undertakes to file certified copy of this order before respondent no. 1 within three weeks from today.

Order Date :- 6.12.2023

Rahul Dwivedi/-