

Court No. - 48

Case :- WRIT - B No. - 613 of 2023

Petitioner :- Devi Dayal

Respondent :- State Of U P And 4 Others

Counsel for Petitioner :- Rajnath Ydav

Counsel for Respondent :- C.S.C.,Sushil Kumar

Hon'ble Saurabh Shyam Shamshery,J.

This matter is pending since 23.02.2023 and despite various opportunity, no counter affidavit has been filed on behalf of respondent till date.

This Court has passed the following order on 21.3.2023 :-

"Supplementary affidavit filed today is taken on record.

Heard Counsel for the petitioner and Mr. Sushil Kumar for respondent No.5.

Counsel for the petitioner submitted that chak revision has been dismissed on the ground that Village has been notified under Section 52 of the U.P.C.H. Act, as such, revision is not maintainable.

Counsel for the petitioner submitted that when the revision was filed, the notification under Section 52 was not issued, as such, the finding recorded by the Revisional Court is illegal. He further submitted that Revisional Court has not considered the case of the petitioner on merit for allotment of chak and dismissed the revision arbitrarily.

Matter requires consideration as to whether the petitioner's revision can be dismissed on the ground that village has been notified under Section 52 of the U.P.C.H. Act although the notification has been issued subsequent to the filing of the revision by the petitioner.

Let the counter-affidavit be filed within 10 days.

Put up this matter in the additional cause list on 10.4.2023 in top 10 cases.

Until further orders of this Court, the effect and operation of the revisional order dated 12.1.2023 shall remain stayed and parties are directed to maintain status quo with respect to nature and possession of the plot in dispute."

Sri Rajnath Yadav, learned counsel for petitioner has reiterated the above submissions. None appeared on behalf of contesting respondent.

I have perused the impugned order carefully and find merit in the argument of learned counsel for petitioner to the extent that impugned order be set aside and matter be remitted to Deputy Director of Consolidation for fresh hearing.

In these circumstances, impugned order dated 12.1.2023 is set aside and matter is remitted to Revisional Authority with direction to decide revision petition afresh after hearing the parties preferably within a period of six months from today, in accordance with law.

This writ petition is accordingly, **disposed of**.

Order Date :- 19.10.2023

P. Pandey