

Court No. - 48

Case :- WRIT - B No. - 756 of 2023

Petitioner :- Rangnath Rai

Respondent :- State Of U.P. And 11 Others

Counsel for Petitioner :- Arun Kumar Pandey, Sachida Nand Tripathi

Counsel for Respondent :- C.S.C., Ajay Singh, Anoop Kumar Pandey, Chandra Prakash Misra, Vinay Kumar, Vinay Kumar Singh

Hon'ble Saurabh Shyam Shamsbery, J.

1. According to office report dated 27.10.2023 service upon all the respondents could be considered to be sufficient.
2. None appeared on behalf of respondents, even no counter affidavit has been filed.
3. Sri Arun Kumar Pandey, learned counsel for the petitioner has referred the submissions referred in the order dated 7.4.2023. Relevant part thereof is mentioned hereinafter:

"Counsel for the petitioner submitted that at the revisional stage, petitioner's chak has been disturbed and the petitioner has been allotted Udan chak on plot Nos.492 and 496. He further submitted that area of the petitioner on plot No.521 has been reduced to 0.015 hectare which is illegal. He further submitted that comparative hardship of the petitioner has not been considered in accordance with the provisions of U.P.C.H. Act & Rules framed thereunder and impugned order has been passed.

On the other hand, Mr. Vinay Kumar Singh, Counsel for respondent No.5 submitted that adjustment has been made considering the claim of respondent No.5 and it is not necessary that each and every claim of tenure holder should be satisfied under consolidation operation therefore no interference is required in the matter.

Matter requires consideration as to whether the chak of the petitioner can be disturbed at the revisional stage without considering the comparative hardship of the petitioner."

4. In the aforesaid circumstances, since no counter affidavit has

been filed, Deputy Director of Consolidation ought to have considered the comparative hardship of the petitioner.

5. It is well settled law that at least comparative hardship has to be considered, but the same has been skipped in the impugned order. Therefore, impugned order dated 30.12.2022 passed by Deputy Director of Consolidation is set-aside and the matter is remitted to him to decide the revision petition afresh within a period of three months from today after hearing the parties in accordance with law.

6. With the aforesaid observation/direction, this writ petition is disposed of.

Order Date :- 28.10.2023

SB