

Court No. - 52

Case :- WRIT - C No. - 10747 of 2021

Petitioner :- Pushpa Singh

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Kaushal Kishore Mani Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Kaushal Kishore Mani Tripathi, learned counsel for petitioner and Sri J.N. Maurya, learned Chief Standing Counsel, assisted by Sri Rajesh Kumar Tiwari, learned Addl. Chief Standing Counsel for the State.

2. While preferring counter affidavit on behalf of respondents no. 2 and 3, learned Chief Standing Counsel submitted that the matter has become infructuous since the administrative order passed way back on 21.12.2020 has already been withdrawn vide order dated 26.10.2023 which was in the shape of administrative order restraining execution of sale-deed as well as mutation proceedings with regard to the plots no. 745 to 752, 100 and 102 situated at Village Mahadev Jharkhandi Tukda No. 3, Tehsil Sadar, District Gorakhpur.

3. Learned counsel for the petitioner while assailing the order dated 21.12.2020 submitted that respondent no. 3 has exceeded the limits of his jurisdiction by way of passing the restraint order at the administrative side whereas the proceedings prescribed under the statutory provisions were already availed by persons aggrieved but the action taken up by respondent no. 3 is in crystal violation of provisions of U.P. Revenue Code, 2006.

4. Preferring counter affidavit, learned Chief Standing Counsel sought attention of the Court over order dated 26.10.2023 which has been appended to the counter affidavit available at page-6 through which it has been demonstrated that the order dated 21.12.2020 has already been withdrawn and the same was passed at the administrative side due to prevailing interim order during the pendency of proceedings under Section 229B.

5. After hearing rival submissions extended by learned counsel for the parties and by perusal of the order dated 26.10.2023, it is crystal clear that there is a self admission made by authority in the shape of respondent no. 3 who passed the order dated 26.10.2023 that the order dated 21.12.2020 ought not to have been passed by the authority concerned. Learned counsel for the petitioner although with open heart accepted the order dated 26.10.2023 but at the same time claimed certain compensation in favour of the persons, specifically the petitioner, who suffered on

account of order which has been admitted by the officer that it ought not to have been passed by his predecessors.

6. Learned Chief Standing Counsel, however, prayed for non imposition of fine in the shape of compensation with the undertaking on behalf of the State that act of passing such illegal order, if occurs in future, may be dealt with severely.

7. Considering the facts and circumstances and taking into account the aforesaid undertaking given by learned Chief Standing Counsel, the petition is disposed of.

8. Personal appearance is dispensed with.

Order Date :- 28.11.2023

P.Sri.