

Court No. - 48

Case :- WRIT - B No. - 1241 of 2023

Petitioner :- Aflatoon

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Brajesh Shukla

Counsel for Respondent :- C.S.C.,Dinesh Kumar,Paritosh Sukla

Hon'ble Saurabh Shyam Shamshery,J.

1. This Court has passed following order on 26.04.2023:-

“Heard Mr. Brajesh Shukla, Counsel for the petitioner, learned Standing Counsel for the State-respondents and Mr. Paritosh Shukla, Counsel for respondent Nos.4 and 5.

Counsel for the petitioner submitted that in pursuance of the order passed by Deputy Director of Consolidation dated 28.01.2022 revision filed by petitioner has been partly allowed setting aside the order of Consolidation Officer dated 13.09.2021 passed under Section 21 (1) of U.P.C.H. Act as well as order of Settlement Consolidation Officer dated 15.07.2021 and matter was remitted back to the Consolidation Officer to decide the title objection as well as chak objection on merit in accordance with law. He further submitted that in pursuance of the order dated 28.01.2022 title objection was decided in favour of the petitioner but chak objection has not been decided till date. He next submitted that in the proceeding under Section 42-A of U.P.C.H. Act impugned order dated 27.07.2022 has been passed without affording proper opportunity of hearing to the petitioner affecting the chak of the petitioner in arbitrary manner. He also submitted the revision filed by the petitioner has been also dismissed arbitrarily.

On the other hand, counsel for contesting respondent Nos.4 and 5 submitted that under impugned order, chak has been allotted in accordance with law. He further submitted that before passing the impugned order, the notices were issued,

to the petitioner and matter was decided, as such it cannot be said that petitioner was not afforded opportunity of hearing. He next submitted revision filed by the petitioner has been decided in accordance with law, as such no interference is required against the impugned order passed by Consolidation authorities.

Matter requires consideration.

Issue notice to respondent Nos.6 and 7 returnable at an early date.

Steps be taken within ten days.

Respondent Nos 4 to 7 shall file counter affidavit within six weeks.

Petitioners will file rejoinder affidavit within two weeks thereafter.

List on 12th July 2023.

Until further orders of this Court, parties are directed to maintain status quo with respect to the nature and possession of the plot in dispute.”

2. Office report indicates that service to respondents could be deemed to be served upon respondents no. 6 and 7, however, no counter affidavit has been filed by respondents no. 4 and 5 despite opportunity was granted.

3. I find merit in argument of Sri Brajesh Shukla, learned counsel for petitioner that Deputy Director of Consolidation without considering the material available on record has passed the impugned order.

4. I have perused the impugned order as well as documents annexed in this writ petition and since there is no serious objection to above referred submissions, therefore, impugned order dated 24.02.2023 is set aside and matter is remitted back to Deputy Director of Consolidation for fresh consideration and Deputy Director of Consolidation will take all endeavour to decide the

said revision petition expeditiously, preferably within a period of six months from today, after hearing rival parties.

5. Writ petition stands **disposed of** with above observations.

Order Date :- 16.10.2023

Nirmal Sinha