

Court No. - 48

Case :- WRIT - B No. - 1372 of 2023

Petitioner :- Sudama Devi And 3 Others

Respondent :- Additional District Magistrate And 6 Others

Counsel for Petitioner :- Tripathi B.G. Bhai, Pramod Kumar Singh

Counsel for Respondent :- CSC, Dharmendra Dhar Dubey, Pankaj Kumar Gupta

Hon'ble Saurabh Shyam Shamshery, J.

1. Heard Sri Tripathi B.G. Bhai, learned counsel for the petitioners and Sri Dharmendra Dhar Dubey, on behalf of respondent no.4.

2. This Court has passed following order on 28.4.2023:

"Heard Mr. Tripathi B.G. Bhai, Counsel for the petitioners, learned Standing Counsel for the State-respondents and Mr. Pankaj Kumar Gupta, Counsel for respondent No.6-Gram Sabha.

Counsel for the petitioners submitted that petitioners were proposed chak on their original plot No.777. He further submitted that petitioners were satisfied by the proposal of the Assistant Consolidation Officer, but in the time barred objection filed by the contesting respondent No.4, chak of the petitioners has been disturbed by which side of the chak road has been changed and petitioners have been affected. He further submitted that appeal and revision filed by the petitioners have been also dismissed.

Counsel for the petitioners has placed reliance upon the chak map which has been annexed along with the writ petition in order to demonstrate that position of the chak, which was proposed by the Assistant Consolidation Officer, was just and proper for the parties concerned. He further placed reliance upon para Nos.16 and 17 of the writ petition, in order to demonstrate that alteration which has been made by the Consolidation Officer is not in accordance with the provisions contained under U.P.C.H. Act.

Matter requires consideration.

Issue notice to respondent Nos.4 and 5 returnable at an early

date.

Steps be taken within ten days.

Respondent Nos.4 and 5 shall file counter affidavit within six weeks.

Petitioners will file rejoinder affidavit within two weeks thereafter.

List on 22nd August, 2023.

Until further orders of this Court, effect and operation of the order dated 26.12.2022, 27.12.2019 and 30.10.2018 passed by the respondent Nos.1, 2 &3 respectively shall remain stayed and parties are directed to maintain status quo with respect to the nature and possession of the plot in dispute. "

3. According to office report, notice was issued to O.P. No.5 fixing the date 21.11.2023, but till today neither the A.D. nor undelivered cover received back.

4. Learned counsel for the petitioners submits that no prejudice would be caused to the respondents if the Revisional Authority may decide the case afresh after considering the rival submissions since great prejudice has been caused to them.

5. In the aforesaid circumstances, impugned order dated 26.12.2022 passed by Deputy Director of Consolidation is set-aside and the matter is remanded to the concerned authority to decide the matter afresh after considering the rival submission as well as memo of grounds mentioned in the revision petition.

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

Order Date :- 21.11.2023

SB