

Court No. - 48

Case :- WRIT - B No. - 1593 of 2023

Petitioner :- Raghubansh Mishra And Another

Respondent :- Deputy Director Of Consolidation / Chief Revenue Officer, Azamgarh And 8 Others

Counsel for Petitioner :- Vinod Kumar Chandel, Mayank Krishna S Chandel, Ram Niwas Singh

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Shyam Shamshery, J.

Order on Amendment Application No. 03 of 2023

1. Heard.
2. Allowed.
3. Let amendment be carried out during course of the day.

Order on Memo of Writ Petition

1. Heard Sri V.K. Chandel, learned counsel for petitioners and perused the record.
2. Petitioners are aggrieved that Deputy Director of Consolidation by means of impugned order has rejected revision filed at the behest of petitioners on the ground that it was pending for last 45 years and despite opportunity atleast from last eight months, petitioners have not filed any written submission and have not finally argued the case. In aforesaid circumstances, Deputy Director of Consolidation has touched merit of the case also.
3. In the present case notices were issued and after first office report fresh notices were issued. As reflected from office report dated 12.10.2023 service upon Respondents-5, 6, 7 and 9 could be considered sufficient since till date neither AD nor undelivered cover has been received back.
4. In order to consider the submission of learned counsel for petitioners, I have perused the impugned order. Deputy Director of Consolidation has not even narrated the circumstances under

which revision was pending for last 45 years and has shown urgency at last stage and decided matter whereby revision was dismissed.

5. No doubt the conduct of petitioners are not bona fide and they have not tried to file written submission and to argue the case finally. Still, the approach of Deputy Director of Consolidation to decide matter on merit despite no argument was raised is also not a correct approach. The Court is not doubting the power of Deputy Director of Consolidation but there is a caveat under Section 48 of U.P. Consolidation of Holdings Act, 1953 that any matter has to be decided after allowing the parties concerned an opportunity of being heard, which appears to be skipped in the present case.

6. In aforesaid circumstances, despite none appeared on behalf of contesting-respondents and since proposed order will not prejudice their case, therefore, the impugned order dated 30.10.2022 is hereby set aside and matter is remitted back to Revisional Authority to decide afresh. Petitioners are directed to file written submission within a period of 14 days from today. In case of default, no further opportunity will be granted and revision be dismissed for want of prosecution. In case written submissions are filed within aforesaid period, the Revisional Authority will consider the rival submissions of parties and decide revision afresh within eight weeks thereafter, if there is no legal impediment.

7. Petitioners are also directed to deposit Rs. 2,500/- in the Bank account of District Legal Services Authority, Azamgarh.

8. With aforesaid observations/directions, this writ petition is disposed of.

Order Date :- 13.10.2023

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