

Court No. - 49

Case :- WRIT - B No. - 2278 of 2023

Petitioner :- Birendra Singh

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

Counsel for Petitioner :- Satyendra Narayan Singh, Pankaj Kumar Mishra

Counsel for Respondent :- C.S.C., Deepak Gaur, Kunal Ravi Singh, Manjari Singh

Hon'ble Syed Qamar Hasan Rizvi, J.

Order on Civil Misc. Withdrawal Application No. 02 of 2023

1. Heard Sri Satyendra Narayan Singh, learned counsel for the petitioner, Ms. Manjari Singh, learned counsel for the caveators, Sri Deepak Gaur, learned counsel for the Gaon Sabha-respondent no. 7 as well as Sri Jitendra Narain Rai, learned Additional Chief Standing Counsel for the State-respondents no. 1 to 4.

2. The present application for withdrawal of the petition has been filed by the petitioner, *inter alia*, stating that due to the typographical error, the date of order and the name in the array of parties have been wrongly described.

3. Ms. Manjari Singh, learned counsel for respondent no. 5 filed a detailed objection to the said withdrawal application on the ground that the petitioner, namely, Birendra Singh, after filing of the present petition filed second Writ Petition No. 3311 of 2023 (Birendra Singh vs. State of U.P. and Others) challenging the order dated 27.02.2023 passed by Board of Revenue U.P. at Allahabad in Second Appeal/468/2017: Smt. Ramkali (deceased) Lallu Tomar and other vs. Birendra Singh and others against one Smt. Ramkali who expired on 05.07.2022. The legal heirs were substituted vide order dated 07.11.2022 before the Board of Revenue and in the impugned order passed on 27.02.2023, the name of Smt. Ramkali (since deceased) was mentioned at the top. Her submission is that the petitioner at the first place deliberately did not array the legal heirs of Smt. Ramkali as a party to the present writ petition and just to misled the Court, made a dead person as a party to the present writ petition.

4. It is further submitted that without serving the copy upon the

counsel for the caveator in the present writ petition, the petitioner challenged the same order by filing second writ petition arraying the legal heirs of the deceased Smt. Ramkali to the writ petition without stating their address.

5. Ms. Manjari Singh further submitted that the petitioner has not approached this Court with clean hands and the writ petition suffers from concealment of material facts.

6. In reply to the said objection/counter affidavit, the petitioner has filed a rejoinder affidavit denying the facts in detail and submitted that the contents of paragraph no. 3(V) and 3(VI) of the counter affidavit are denied. He further asserted that since there are so many technicalities in typography and dead person has been made a party, therefore, the withdrawal application has been filed on 22.08.2023, but due to the lawyers' strike, no order was passed and the matter was sent back to the registry and the registry sent the matter before the Court without marking the report. He further submitted that it is only a typographical mistake in the writ petition and there is no deliberate mistake on the part of the petitioner.

7. At the end, learned counsel for the petitioner submits that since the petitioner has accepted his fault and is sorry for the mistake committed by him, this Court may be pleased to allow the petitioner to withdraw the present petition with a liberty to the petitioner to file fresh petition.

8. Taking into consideration the submission advanced by the learned counsel for the parties, this Court is of the view that the present withdrawal application is liable to be allowed with the cost of Rs. 1,000/- (Rupees One Thousand) on the petitioner.

9. Accordingly, the present withdrawal application is ***allowed*** with cost.

Order on Memo of Writ Petition

The present writ petition is **dismissed as withdrawn** with a liberty to file a fresh petition with correct particulars, with due caution and care.

Order Date :- 9.11.2023

Anjali