

Court No. - 52

Case :- WRIT - C No. - 22607 of 2022

Petitioner :- Nandrani

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Rakesh Pathak

Counsel for Respondent :- C.S.C., Chandra Shekhar Agnihotri, Rohit Verma, Sher Bahadur Singh

Hon'ble Saurabh Srivastava, J.

1. Heard learned counsel for the parties and perused the record.

2. The facts of the case, as described in the writ petition, are that Original Suit No. 6546 of 2014 was instituted under Section 176 of U.P.Z.A. & L.R. Act by Pothiram (respondent no. 4 herein) seeking partition of the property in suit. Petitioner, being purchaser of the land in the property in dispute from co-sharer, Tilakram, respondent no. 5, vide sale deed dated 02.12.2014 was directed to be impleaded vide order dated 15.11.2017. However, vide order dated 01.02.2018 passed by respondent no. 3 the opportunity of petitioner for filing objection was struck out. Being aggrieved, petitioner preferred Revision No. 01581 of 2019. However, without advertent to the grounds taken by the petitioner with regard to grant of proper opportunity in the proceedings, respondent no. 2 vide order dated 17.02.2021 dismissed the revision preferred by the petitioner. Challenging both the aforesaid orders, i.e, order dated 01.02.2018 passed by respondent no. 3 striking out the opportunity of petitioner to file objection and the order dated 17.02.2021 passed by respondent no. 2 dismissing the revision preferred by the petitioner, the present petition has been filed.

3. A short counter affidavit has been filed by Pothiram, plaintiff in the suit in the question and respondent no 4 herein, fairly stating in para 2 thereof as under:

"2. That, the present writ petition has been filed against the orders passed by the Courts below, whereby the opportunity to file the objection against the final decree has been struck off hence the present writ petition may be allowed and the matter may be remanded back to the S.D.O. to prepare the Final Decree as per law."

4. In view of above, the petition is allowed. Order dated 01.02.2018 passed by respondent no. 3 in Suit No. 6546 of 2014 and the order dated 17.02.2021 passed by respondent no. 2 in Revision No. 01581 of 2019 are hereby set aside.

Order Date :- 1.11.2023

P.Sri.