

Court No. - 48

Case :- WRIT - B No. - 1599 of 2020

Petitioner :- Vidhyaman

Respondent :- Deputy Director Of Consolidation And 6 Others

Counsel for Petitioner :- Rohit Nandan Pandey, Sanjeev Kumar Pandey

Counsel for Respondent :- C.S.C., Ashok Gupta, Ram Singh

Hon'ble Saurabh Shyam Shamshery, J.

1. This Court has passed following order on 01.02.2021:-

“Sri Sanjeev Kumar Pandey, learned counsel for the petitioner contends that the notification under Section 6(1) of the Uttar Pradesh Consolidation of Holdings Act, 1953 was made on 17.09.2003. (It is submitted that the date of 15.11.2003 as recorded in the order passed by the Settlement Officer, Consolidation is incorrect, inasmuch as, the notification was in fact issued on 17.09.2003). 15 years after the issuance of the aforesaid notification, the respondent No.7 instituted an appeal registered as Appeal No.88 (Gaya Prasad Vs. Vidhyaman) under Section 11(1) of the Uttar Pradesh Consolidation of Holdings Act against the order dated 27.11.2001. The appeal was rejected by the Settlement Officer, Consolidation, Banda on the ground that the same was not maintainable by the order dated 04.07.2019. The respondent No.7 took the order dated 04.07.2019 in revision. The revision was instituted as Revision No.169 of 2019 (Gaya Prasad Vs. Vidhyaman).

Sri Sanjeev Kumar Pandey, learned counsel for the petitioner further contends that the court below erred in law and exceeded its jurisdiction by entertaining the aforesaid revision 17 years after the publication of the notification under Section 6(1) of the Uttar Pradesh Consolidation of Holdings Act, 1953. He relies on the judgement rendered in Mueed Khan and others Vs. State of U.P. through Principal

Secretary, Revenue Department and others, reported at 2017 (137) RD 487.

Issue notice to the respondent No.7 by registered post AD as well as by regular process returnable within six weeks. Steps be taken within two weeks.

All the respondents to file their counter affidavits before the next date of listing.

List after six weeks.

Till further orders of this Court, the proceedings of Revision No.169 of 2019 (Gaya Prasad Vs. Vidhyaman), pending before the Deputy Director of Consolidation, Banda shall remain stayed.

It is open to the respondent No.7 to approach the competent court of law for redressal of his grievances.”

2. Sri Sanjeev Kumar Pandey, learned counsel for petitioner has reiterated his arguments as argued in above referred order.

3. Sri Ram Singh, learned counsel for respondents has not contradicted above submission of learned counsel for petitioner and submits that issue of maintainability of revision petition can be addressed by Revisional Authority and for that this Court may not interfere with proceedings.

4. The issue before this Court as reflected above is only in regard to maintainability of revision petition wherein an order was impugned whereby appeal was rejected on ground of maintainability as well as whether such proceedings could be initiated after notification issued under Section 6(1) of U.P. Consolidation of Holdings Act, 1953.

5. Instead of deciding aforesaid issue on merit, since the revision petition has already been filed by respondents and the Revisional Authority has ample power to decide

the issue of maintainability also, therefore, may decide issue of maintainability also.

6. In view of above, this writ petition is **disposed of** with an observation that Revisional Authority will decide the issue of maintainability of revision petition at first instance within a period of three weeks from today and its legal consequences shall follow.

Order Date :- 27.10.2023

Nirmal Sinha