

Court No. - 52

Case :- WRIT - C No. - 25925 of 2022

Petitioner :- Salil Kishore

Respondent :- State Of U.P. And 11 Others

Counsel for Petitioner :- Ram Tiwari

Counsel for Respondent :- C.S.C., Krishna Kumar Shukla

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Ram Tiwari, learned counsel for petitioner and Sri Rajkumar Singh, learned Standing Counsel for the State-respondent nos.1 and 2.

2. The present petition has been preferred challenging the order dated 30.03.2022 passed by respondent no.2 i.e. Additional Commissioner (Judicial) II, Bareilly Region, Bareilly in Case No.1015 of 2015, Computer Case No.C202112000001015 (Salil Kishore Vs. Brij Kishor and others), under Section 219 of U.P. Revenue Code, 2006.

3. It is the case of the petitioner that his grandfather, namely, Narayandas was the owner of gata nos.677 and 405 and after his death, the said lands were transferred in the name of legal heirs of petitioner's grandfather. The respondent nos.3 to 12, who have no right over the aforesaid plots, with the collusion of the revenue authorities got their names recorded in the revenue records. When the petitioner got knowledge about the forged entries in the revenue records, he moved an application under Section 33/39 of U.P. Land Revenue Act before the Sub Divisional Magistrate, Aonla for correction in the revenue records, whereupon respondents have also filed their reply. The said application preferred by the petitioner was dismissed by the Sub Divisional Magistrate, Aonla vide order dated 24.07.2013 but the petitioner could not get knowledge of the said order. When the petitioner got knowledge of the order dated 24.07.2013, he immediately filed a revision under Section 219 of U.P. Revenue Code along with delay condonation application before respondent no.2 in the year 2021 against the order dated 24.07.2013 passed by Sub Divisional Magistrate, Aonla which was registered as Case No.1015 of 2015, Computer Case No.C202112000001015 (Salil Kishore Vs. Brij Kishor and others). The respondent no.2 vide order dated 30.03.2022 rejected the aforesaid revision preferred by the petitioner only on the ground of delay which impugned the present petition.

4. Learned counsel for the petitioner submitted that since delay in filing the revision was properly explained by the petitioner that he was suffering from heart disease but without considering the same, the respondent no.2 rejected the revision preferred by the petitioner only on the ground of delay.

5. Per contra, learned Standing Counsel vehemently opposed the prayer as made in the petition and supported the order impugned on the ground that the respondent no.2 rightly rejected the revision preferred by the petitioner since the same was filed after about seven years.

6. By bare perusal of the order impugned, it appears that the revision preferred by the petitioner has been rejected only on the ground of delay, nothing has been returned on the merits of the matter. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. Hon'ble the Apex Court with a reference to Section 5 of the Limitation Act in **N. Balakrishnan vs. M. Krishnamurthy reported in JT 1998 (6) SC 242** has laid down that the primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. In para 14, it has been stated that it must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of malafides or it is not put-forth as part of a dilatory strategy the court must show utmost consideration to the suitor. It has been laid down that in such matters, approach of the court should be justice oriented. Further Hon'ble the Supreme Court in the case of **Haribhai Lakhmanbhai Seedhav Vs. State of Gujarat and to others, 2009 (27) LCD 1645** has also held that the Court should not reject appeal/revision on the ground of delay and the same should be decided on merit.

7. In view of the aforesaid facts and circumstances, the order dated 30.03.2022 passed by respondent no.2 is hereby quashed and set aside, matter is remitted back to the respondent no.2 for deciding the same on merits.

8. The present petition is **allowed** accordingly.

Order Date :- 31.10.2023

Vivek Kr.