

Court No. - 48

Case :- WRIT - B No. - 2698 of 2023

Petitioner :- Ram Awadh

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

Counsel for Petitioner :- Sanjay Kumar Srivastava

Counsel for Respondent :- C.S.C., Indra Mohan Singh, Rameshwar Prasad Shukla

Hon'ble Saurabh Shyam Shamschery, J.

1. Heard Sri S.K. Srivastava, learned counsel for petitioner, Sri A.C. Nishad, learned Standing Counsel for State-Respondents and Sri I.M. Singh, Advocate for contesting-respondents.
2. Petitioner has put himself in a position whereby he presently appears to be remediless.
3. Learned counsel for petitioner fairly submits that against the order passed by Consolidation Officer petitioner has taken two remedies. One by way of filing restoration application and second by filing appeal. Appeal was dismissed for want of prosecution vide order dated 05.07.2022 and this order was not challenged further. On other hand, Consolidation Officer has allowed restoration application vide order dated 14.09.2022, which was directly challenged by respondents by way of filing revision before Deputy Director of Consolidation and it was allowed by means of impugned order dated 13.04.2023.
4. Challenge to the order passed by Consolidation Officer by way of filing a substantial appeal was dismissed for want of prosecution, however, admittedly petitioner has neither taken any steps to restore it or to challenge it on merit. Present proceedings are arising out of a restoration application and since the order passed by Consolidation Officer was after hearing both parties, therefore, challenge through restoration application has no legal basis.

5. In aforesaid circumstances and taking note of status of petitioner as well as in the interest of justice, without interfering with impugned order, this writ petition is disposed of with liberty to petitioner to either file restoration application to restore appeal or to challenge the order passed by Appellate Authority by way of filing revision, as advised. It is made clear that this Court has not made any comment with regard to issue of limitation, which shall be dealt in accordance with law.

Order Date :- 3.11.2023

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