

Court No. - 52

Case :- WRIT - C No. - 24928 of 2020

Petitioner :- Dilip Kumar

Respondent :- Additional Commissioner And 3 Others

Counsel for Petitioner :- Shahroze Khan

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Shahroze Khan, learned counsel for the petitioner and learned Standing Counsel appearing on behalf of respondents no. 1, 2 and 3.

2. Considering the matter, which has been apprised through instructions which was called on earlier occasion, issue of notice to private respondent no. 4 is hereby dispensed and with the consent of learned counsel for the parties, instant petition is hereby decided at the admission stage itself.

3. Factual matrix of the matter derives that on the basis of registered will, petitioner's name has been entered in the revenue record way back in the year 2004 itself. Respondent no. 4 preferred restoration applications on 11.05.2011 and 21.03.2012. Both the applications preferred by respondent no. 4 has been decided vide common judgment dated 07.03.2014 by way of rejecting the claim as made by respondent no. 4. Being aggrieved with the order dated 07.03.2014, the same was again sought to be restored by way of filing application dated 24.04.2014. Specific allegation has been put forward against the petitioner that by way of misguiding the concerned staff of the revenue Court although date was already fixed for 24.04.2014, the matter has been taken up by respondent no. 3 on dated 07.03.2014 and as such the order passed over restoration application preferred by respondent no. 4 was completely an ex-parte order and no opportunity of hearing has been afforded to contest the case. Over the application dated 24.04.2014 itself, order dated 07.03.2014 has been recalled by respondent no. 3 on the same date i.e. on 24.04.2014.

4. Being aggrieved, petitioner preferred Revision before respondent no. 2 and the same was also dismissed as not maintainable which impugned the present writ petition.

5. Learned counsel for the petitioner raised his argument that the order dated 07.03.2014 itself speaks that both the parties have been heard and the same has been passed on merits.

6. Sri Surendra Kumar Singh, learned Standing Counsel, submitted that there is

hardly any prejudice caused to the petitioner with the order dated 24.04.2014 since the entries available in the revenue record in pursuant to the order passed by competent authority way back in the year 2004 remained in tact and if any case pursuant to the restoration application preferred by respondent no. 4 be initiated after affording proper opportunity to respondent no. 4, once again proper justice by the concerned revenue authorities shall be ensured.

7. After hearing the arguments raised by learned counsel for the parties, one vital issue has transpired that in pursuant to the order dated 24.04.2014, which has impugned the present petition, restoration application preferred by respondent no. 4 is still pending to be finally decided by respondent no. 3 himself. There is hardly any order with regard to the change of revenue entries available in favour of the petitioner.

8. Be that as it may, without entering with the merits of the restoration application preferred by respondent no. 4, if there is no other legal impediment, respondent no. 3 is hereby directed to decide the same in pursuance to the order dated 24.04.2014 as expeditiously as possible preferably within the period of three months from the date of production of a certified copy of this order.

9. The writ petition is disposed of, accordingly.

Order Date :- 9.11.2023

P.Sri.