

Court No. - 49

Case :- WRIT - B No. - 2730 of 2023

Petitioner :- Sujeet Kumar Singh

Respondent :- State Of U.P. And 14 Others

Counsel for Petitioner :- Amresh Kumar Tiwari, Manish Nath Tripathi

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Sri Ravi Nath Tiwari, Advocate holding brief of Sri Amresh Kumar Tiwari, learned counsel for the petitioner and Sri Jitendra Narain Rai, learned Additional Chief Standing Counsel for the State-respondents no.1, 2 & 3. Sri Sudhir Bharti has accepted notice on behalf of Gaon Sabha-respondents no.13, 14 & 15.

2. By means of the present writ petitioner, the petitioner has prayed for following relief:

"(i) To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 16.09.2020 passed by respondent no.2 in Restoration Case No.91 of 2020, Computer Case No. AL202005310091 (Ram Chandra vs. Krishna Pratap Singh and others) under Section 333 of U.P.Z.A. & L.R. Act and the impugned order dated 02.03.2023 passed by the respondent no.2 in case no. AL20220520002011 (Ram Chandra vs. Krishna Prasad and others) under Section 333 of U.P.Z.A. & L.R. Act.

(ii) To issue a writ, order or direction in the nature of certiorari quashing the proceedings of Second Appeal No. 13 of 1995-96 (Ram Chander vs. Krishna Pratap @ Krishna Prasad) pending before the Board of Revenue, U.P. at Prayagraj.

(iii) To issue any other order or direction which this Hon'ble Court deems fit and proper in the interest of justice."

3. Learned counsel for the petitioner submits that the Board of Revenue (respondent no.2) without taking into consideration the factual matrix of the case, has restored the Second Appeal No.13/1995-96 vide order dated 02.03.2023. His submission is that Second Appeal was earlier dismissed for want of prosecution on 28.08.2003 and was restored after a lapse of about 17 years. Again, the same was dismissed on 22.09.2021. Then again, it was restored on 02.03.2023.. He further submits that the order dated 02.03.2023 is an ex-parte order and the same has been passed without affording any opportunity of hearing or serving any notice upon the present.

4. Learned counsel appearing on behalf of the State submits that now the appeal has been restored to its original number and the parties to the appeal have already put in their appearance before the learned Board of Revenue.

5. Considering the facts and circumstances of the case, this Court is of the view that since the parties have put in their appearance before the learned Board of Revenue, the petitioner may file an application for recall of the order dated 02.03.2023 being an ex-parte order and no useful purpose would be served in keeping this writ petition pending.

6. In view of the nature of the order proposed to be passed, the service of notice upon the respondents no.5 to 12 is dispensed with.

7. Accordingly, the present writ petition is **disposed of** with a direction to the learned Board of Revenue, U.P. at Prayagraj (respondent no.2) that in case such an application for recall the order dated 02.03.2023 is filed within a period of two weeks from today, the same shall be considered and decided, strictly in accordance with law, after affording opportunity of hearing to the contesting parties, by the next date fixed in the matter or within a maximum period of **three months** from the date of receipt of such application for recall along with certified copy of this order, whichever is earlier.

Order Date :- 7.11.2023

Abhishek Gupta