

Court No. - 52

Case :- WRIT - C No. - 25754 of 2023

Petitioner :- Ramveer Singh

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Kamalendra Kumar Maurya

Counsel for Respondent :- C.S.C.,Avinash Chandra Srivastava

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Kamalendra Kumar Maurya, learned counsel for petitioner and learned Standing counsel for State respondents.

2. Present petition has been filed seeking following reliefs:

"I. a writ, order or direction in the nature of certiorari quashing the impugned order dated 30.8.2022 passed by respondent no. 2 i.e. Additional Commissioner Mainpuri, Agra Mandal, Agra, in Appeal no. 2249 of 2018, computerized case no. C201801000002249 (Jashoda Devi and another versus Suraj Singh and others)."

3. It is the case of petitioner that petitioner and private respondents are co-sharer of plot no. 995 area 1.3110 hectare, out of which, petitioner Ramveer and respondent Suraj Singh and Udayveer Singh had equal of 1/3 share, but Jashoda Devi is purchaser of 0.020 hectare area from share of Udayveer.

4. Petitioner has filed a partition suit before respondent no. 3, under Section 176 of U.P.Z.A and L.R. Act, 1950 wherein the court has passed final decree dated 19.02.2018 in accordance with law. Thereafter, Suraj Singh has filed a restoration application dated 15.10.2018 for recalling the preliminary as well as final decree dated 16.03.2016 and 19.02.2018 respectively, which was allowed and the case was restored vide order dated 10.05.2018. Respondent no. 3 made spot inspection, and after perusing the record he reached to the conclusion that preliminary decree dated 16.03.2016 as well as final decree dated 19.02.2018 are correct and therefore he finally confirmed it through order dated 17.10.2018. Being aggrieved with the order dated 17.10.2018, Smt. Jashoda Devi and Kanti Devi filed an appeal before respondent no. 1 who allowed the appeal vide impugned order dated 30.08.2022 by setting aside the order dated 17.10.2018 and remanding the matter back to Sub Divisional Officer, Tehsil Kishni, District Mainpuri.

5. Learned Standing counsel came up with specific instructions which is taken on record and submitted that there is hardly any infirmity and illegality highlighted by learned counsel for the petitioner in the impugned order dated 30.8.2022. The matter has only been remanded back by way of directing the Sub Divisional Officer, Tehsil Kishni, District Mainpuri for reinspecting the property in question and ascertain the position with regard to possession as well as subsequent development occurred.

6. Considering the facts and circumstances, as well as having the rival submissions extended by learned counsel for the parties, there is hardly any illegality, perversity or procedural error highlighted by learned counsel for petitioner in the impugned order. Moreover, the revisional authority directed the Sub Divisional Officer concerned for ascertaining the factual position and for further adjudication and the same shall be carried out by Sub Divisional Officer by way of affording proper opportunity to all concerned.

7. In view of the aforesaid, no interference is required and the instant writ petition stands ***disposed of*** accordingly.

Order Date :- 31.10.2023

Shaswat