

Court No. - 49

Case :- WRIT - C No. - 26441 of 2023

Petitioner :- Smt Santosh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Suresh Kumar Singh, Gajendra Singh

Counsel for Respondent :- C.S.C

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Sri Suresh Kumar Singh, learned counsel for the petitioner, Sri Jitendra Narain Rai, learned Additional Chief Standing Counsel for the State-respondent nos. 1 & 2 and perused the record.

2. The instant writ petition has been filed, inter alia, for the following relief:

"(i) issue a writ, order or direction in the nature of mandamus to direct the Tehsildar, Tehsil Sahaswan, Budaun, respondent no. 2 to decide the restoration application filed by the petitioner in Case No. 8069/2021, Computerized Case No. T202112070408069 (Dinesh Dutt Sharma Vs. Natthu Singh) under Section 34 of U.P. Revenue Code, 2006 pending since 27.02.2023, expeditiously preferably within some stipulated period fixed by this Hon'ble Court.

(ii) to issue a writ, order or direction in the nature of mandamus restraining the respondent no. 3 and 4 not to interfere in the peaceful possession of vendees i.e. petitioner, Smt. Anita & Smt. Rajnesh or create any third party right over land Gata No. 199Ka area 0.581 hectare, situated in revenue village Firozabad Narauta, Pargana & Tehsil Sahaswan, District Budaun."

3. Learned counsel for the petitioner submits that a restoration application in the case bearing No. 8069/2021, Computerized Case No. T202112070408069 (Dinesh Dutt Sharma Vs. Natthu Singh) in the proceeding under Section 34 of U.P. Revenue Code, 2006 is pending for orders since 27.02.2023 before the Tehsildar, Tehsil Sahaswan, Budaun (respondent No.2) but till date the aforesaid restoration proceeding has not been concluded. He further submits that due to the pendency of the said case, the petitioner is facing undue hardship.

4. Sub Rule 7 of Rule 34 of the U.P. Revenue Code Rules, 2016 provides as under:

".....(7). The Tahsildar shall make an endeavour to decide the undisputed case of mutation within the period of 45 days from the date of the registration of the case and the disputed case of mutation within the period of 90 days and if the proceeding is not concluded within such

period the reason for the same shall be recorded."

5. There is a clear legislative mandate that if proceedings are not concluded within the period of time as provided under the aforesaid provision, reasons for the same shall be recorded.

6. Learned Standing Counsel for the State submits that he has no objection to the extent that a direction is issued by this Court for expeditious disposal of the above mentioned restoration application, within stipulated period as fixed by this Court.

7. In view of the nature of the order proposed to be passed, the service of notice upon the respondent nos. 3 & 4 is dispensed with.

8. Taking into consideration the facts and circumstances of the case, this Court is of the view that no useful purpose would be served in keeping this writ petition pending.

9. Accordingly, without advertent on merits of the case, with the consent of learned counsel for the parties, this Court deems it appropriate to finally dispose of the present writ petition, with a direction to the Tehsildar, Tehsil Sahaswan, Budaun (respondent No.2), before whom the restoration application, In Re: Case No.8069/2021, Computerized Case No. T202112070408069 (Dinesh Dutt Sharma Vs. Natthu Singh) under Section 34 of U.P. Revenue Code, 2006 is pending for disposal, to decide the same strictly in accordance with law, by a reasoned and speaking order on merit, after affording opportunity of hearing to the parties concerned, expeditiously and preferably within a maximum period of three months from the date of receipt of a certified copy of this order, unless there is any legal impediment. It is further directed that no unnecessary adjournments shall be granted to either of the parties.

10. With the aforesaid direction, the present writ petition is disposed of.

Order Date :- 7.11.2023

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