

Court No. - 49

Case :- WRIT - C No. - 26436 of 2023

Petitioner :- Jai Prakash Tiwari

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ram Kumar Pal,Raj Kumar Pandey

Counsel for Respondent :- C.S.C.,Bhupendra Kumar Tripathi

Hon'ble Syed Qamar Hasan Rizvi,J.

Order on Civil Misc. Amendment Application No.02 of 2023

1. Heard Sri Ram Kumar Pal, learned counsel for the petitioner, Sri Dinesh Kumar Verma, learned Standing Counsel representing the respondents no.1 & 3; Sri Kamal Kumar Sharma, Advocate holding brief of Sri Bhupendra Kumar Tripathi, learned counsel for the Gaon Sabha-respondent no.2 and perused the record.
2. The petitioner has moved the instant application for amendment in the prayer clause of the writ petition.
3. Learned Standing Counsel for the State submits that he has no objection to the said amendment application.
4. The application for amendment is allowed. Accordingly, the petitioner may incorporate the amendments in the memo of writ petition, during the course of the day.

Order on Writ Petition-

1. Heard learned counsel for the parties.
2. By means of the instant writ petition, the petitioner has prayed for a writ in the nature of mandamus directing the respondent no.3 to decide the Restoration Application No.RST/35/2022 filed in Case No.202214700000035/2022 (Jai Prakash Tiwari versus State), pending under Section 24 of the U.P. Revenue Code, 2006, before the Addl. City Magistrate, II, Varanasi within stipulated period.
3. Learned counsel for the petitioner submits that the restoration application bearing Case No. RST/35/2022 is pending for disposal since 2022 before the respondent no.3, but till date the same has not been decided.

4. Para 479 of the Revenue Court Manual provides as under:

"Reason for delay in disposal- If the period for concluding a proceeding has not been fixed in the Code or the Rules; the court shall endeavour to conclude the proceeding within a period of ninety days and if the proceeding is not concluded within the aforesaid period, the reason for the same shall be recorded."

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

6. Learned Standing Counsel submits that he has no objection to the extent that a direction is issued by this Court for expeditious disposal of the case within stipulated period as to be fixed by this Court.

7. 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.

8. Accordingly, without advertng on merits of the case and with the consent of the parties, this Court deems it appropriate to finally dispose of the present writ petition with a direction to the Additional City Magistrate, IInd, Varanasi (respondent No.3), to decide the aforesaid Case No. RST/35/2022 (Computerized Case No. 202214700000035/2022), 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 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 be granted to either of the parties.

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

Order Date :- 1.11.2023

Abhishek Gupta