

Court No. - 40

Case :- WRIT - C No. - 27603 of 2023

Petitioner :- Rajendra Kumar Tiwari

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

Counsel for Petitioner :- Gulab Chandra,Rupesh Kumar Singh

Counsel for Respondent :- C.S.C.,Brijendra Kumar

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Gulab Chandra, learned counsel for the petitioner, Sri Rajmohan Upadhayay, learned Additional Chief Standing Counsel for State Respondents and Sri Brijendra Kumar Ojha, learned counsel for the Prayagraj Development Authority.

2. This writ petition is preferred for the following principal relief:

"i. issue a writ order or direction in the nature of writ of mandamus commanding the respondent District Magistrate to pass appropriate final speaking reasoned order on the representation of father of the petitioner dated 19.01.2007, application of petitioner dated 22.09.2022 and 3.1.2020 within appropriate reasonable time, and to allow the writ petition.

ii. issue a writ order or direction in the nature of ad-interim mandamus commanding to the respondent authorities not to adopt any co-ercive action for dispossession of petitioner from the land in question till final decision of representation/ applications dated 3.1.2020 and also not to create the third party interest, to secure the ends of justice."

3. It transpires from the record that the land of the petitioner(s)/ purchaser was declared as surplus under the Urban Ceiling Act. It is claimed that the petitioner's father had approached to this court by preferring Writ-C No.69781 of 2006 (Ram Chandra son of Late Sheo Sahai vs. State of U.P. through Principal Secretary, Ministry of Finance and Revenue, U.P. Lucknow and others). The said writ petition was disposed of on 20.12.2006 by Division Bench asking the petitioner to file a representation before the competent authority.

4. Learned counsel for the petitioner states that in spite of the said leave, the claim of the petitioner has not been decided by the respondent authority. Thereafter, he preferred Contempt Application (Civil) No.4796 of 2011 (Rajendra Kumar Tiwari vs. Alok Kumar D.M.), which was dismissed on the ground of limitation by order dated 07.05.2019. Learned counsel for the petitioner further states that as claim of the petitioner's father had not been adjudicated by the ceiling authorities, therefore, the petitioner re-represented before the District Magistrate, Allahabad through representation dated 03.01.2020 for redressal of his grievance in view of leave

granted by order of High Court dated 20.12.2006.

5. Sri Brijendra Kumar Ojha, learned counsel for the Prayagraj Development Authority submits that ceiling proceedings had been completed way back in the year 1983 against one Deoki Devi wife of Sarju. In her life time, she has never contested the ceiling proceedings and later on possession was taken over in view of provisions of Section 10(3) of the Urban Ceiling Act, 1976. The claim has been set up that she has executed a registered Will on 04.05.1988 in favour of the petitioner's father who had instituted the earlier writ petition.

6. In this background, Sri Rajmohan Upadhayay, learned Additional Chief Standing Counsel for State Respondents has raised an objection that once possession of the land was taken free from all encumbrances in view of provision of Section 10(3) of the Urban Ceiling Act, 1976, no right can be created on the basis of alleged/ purported Will. Moreover, the contempt application has already been rejected by learned Single Judge on the ground of limitation. He states that at this belated stage, the claim cannot be revived and as no cause of action survives, therefore, the writ petition is liable to be dismissed on the ground of delay and laches.

7. Considering the facts and circumstances of the case, the said objection of Sri Rajmohan Upadhayay, learned Additional Chief Standing Counsel for State Respondents is sustainable and no relief can be extended to the petitioner and the writ petition is liable to be dismissed.

8. Confronted with this situation, learned counsel for the petitioner states that he is not inclined to press the present writ petition. Accordingly, the writ petition is **dismissed as not pressed.**

Order Date :- 6.12.2023

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