

Court No. - 52

Case :- WRIT - C No. - 28921 of 2022

Petitioner :- Geeta Pandey And 4 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Anil Kumar Mishra

Counsel for Respondent :- C.S.C,Pradeep Singh

Hon'ble Saurabh Srivastava,J.

1. Heard Shri Anil Kumar Mishra, learned counsel for the petitioner, Shri Dhananjay Singh, learned standing counsel for the state respondents and Shri Pradeep Singh, learned counsel for the Gaon Sabha.

2. On 6.12.2022, a Coordinate Bench of this court passed a detailed order in shape of interim order which is quoted hereinunder:

"(Order on the memo of Writ Petition)

The patta of the land in dispute was granted vide Resolution dated 22.12.1975 in favour of the petitioners' vendor, Kailash by the Gaon Sabha. The approval of the Gaon Sabha granting patta in favour of the petitioners' vendor was given by the Sub-Divisional Officer on 24.01.1976. The patta in favour of the petitioners' vendor comprises Gata Nos. 889/2, 889/3M, 889/16M, 892M, 893/3M, 889/1 and 889/15. This allotment was succeeded by consolidation operation, wherein, rights of the petitioners came to be recorded in the consolidation records, including C.H. Form 45 issued in favour of the petitioners' vendor. Consolidation operations in the village were de-notified on 21.08.1995. Subsequently, the petitioners' vendor became a bhumidhar under Section 131B of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950. He executed sale deeds of Gata Nos. 1021 and 1025 in favour of petitioners, numbering four, dated 13.08.2003, 26.04.2011, 25.02.2012 and 06.03.2014. All these sale deeds were registered in the Office of the Sub-Registrar, Sonbhadra.

Now, the rights of the petitioners' vendor have been cancelled by the impugned order dated 04.07.2020 in exercise of power under Section 38(2) of the U.P. Revenue Code, 2006. The petitioners' appeal from the said order has been dismissed by the Additional Commissioner, Vindhyachal Division, Mirzapur vide order dated 04.07.2022 passed in Case No. 559 of 2022. Both the Authorities below have cancelled the rights of the petitioners' vendor on the ground that entries in the revenue records are forged and fictitious. It is argued that apart from the fact that no opportunity was offered to the petitioners, it is not at all indicated in what manner the revenue records in favour of the petitioners' vendor are forged or fictitious. A perusal of the impugned order passed by the Authority of first instance does not indicate prima facie as to how the Authority has concluded that the entries are forged

and what kind of forgery has been discovered. It is not mentioned whether the Resolution of the Gaon Sabha was forged or the signatures of the members at the time were not there, or the Sub-Divisional Magistrate's approval was forged or fictitious. Apart from writing in bold words that entries are forged, the particulars of the forgery or the fraud practiced have not been indicated, even in the slightest measure. The said error has crept into the appellate order, which only makes a larger record of facts, without specifically mentioning how the entries are forged.

A prima facie case is made out.

Admit.

Issue notice.

Notice on behalf of respondents nos. 1 to 5 is accepted by the learned Standing Counsel. Notice on behalf of the Gaon Sabha is accepted by Mr. Pradeep Singh, Advocate. Both the learned Counsel are granted four weeks' time to file a counter affidavit.

List for orders on 10.01.2023, along with a report regarding of pleadings.

(Order on Civil Misc. Stay Application No. 2 of 2022)

Issue notice.

Until further orders, operation of the impugned order dated 04.07.2022 passed by the Commissioner, Vindhyachal Division, Mirzapur and the order dated 04.07.2020 passed by the Sub-Divisional Officer, Sadar, Robertsganj, Sonbhadra shall remain suspended and it is ordered that the petitioners shall not be dispossessed.

Let this order be communicated to the Commissioner, Vindhyachal Division, Mirzapur and the Sub-Divisional Officer, Sadar, Robertsganj, Sonbhadra through the Collector, Sonbhadra by the Registrar (Compliance), within three days next."

3. In view of the aforesaid observations as made vide order dated 6.12.2022, this writ petition is liable to be allowed.

4. Accordingly, writ petition is **allowed** and order dated 4.7.2022 passed by respondent no.2, ex-parte order dated 4.7.2020 passed by respondent no.5 and ex-parte order dated 11.12.2019 passed by respondent no.3 on the basis of ex-parte enquiry report dated 9.12.2019 submitted by the respondent no.4 are hereby quashed and set aside.

Order Date :- 24.11.2023

Rakesh