

Court No. - 52

Case :- WRIT - C No. - 28538 of 2023

Petitioner :- Kedar Ram And Another

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

Counsel for Petitioner :- Girja Shanker Mishra,Pratiksha Rai

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

Hon'ble Saurabh Srivastava,J.

1. Heard Miss. Pratiksha Rai, learned counsel for petitioners, Sri Prabhakar Tripathi, learned Standing Counsel appearing on behalf of respondents no. 1 to 3 and Sri Amit Gupta, Advocate, holding brief of Sri Bhupendra Kumar Tripathi, learned counsel representing respondent no. 4.

2. It is the case of the petitioners that the order dated 14.11.2019 passed by Sub-divisional Magistrate and order dated 25.08.2022 passed by Additional District Magistrate (L&R), Ghazipur were put to challenge by filing Writ Petition (Writ-C) No. 33354 of 2022 and the same was dismissed vide order dated 20.02.2023 by way of giving liberty to petitioners for preferring a revision under Section 210 of U.P. Revenue Code, 2006 before Board of Revenue.

3. Pursuant to the observations made by co-ordinate Bench, petitioners preferred Revision No. REV/1437/2023/Ghazipur under Section 210 of U.P. Revenue Code, 2006 but the same was dismissed vide order dated 21.06.2023 on the ground of non maintainability.

4. Learned counsel for the petitioners drew attention of this Court over the adjudication made by learned Board of Revenue while passing order dated 21.06.2023 wherein learned Board of Revenue presumed that the entire proceedings, whatsoever, has been initiated by the petitioners for challenging the order passed by Sub-divisional Magistrate as well as Addl. District Magistrate under Section 67(5) of U.P. Revenue Code, 2006 whereas there is hardly any proceedings initiated against the petitioners under Section 67 or any appeal preferred by the petitioners under Section 67(5) of U.P. Revenue Code, 2006 and, as such, the presumption drawn by learned Board of Revenue while passing the order dated 21.06.2023 is illegal per se.

5. Learned Standing Counsel, although opposed the prayer made in the petition, but showed his agreement upto the extent that no proceedings under Section 67(5) has been preferred by the petitioners. The submission extended by learned Standing Counsel has been seconded by learned counsel appearing for Gaon-Sabha.

6. After perusal of entire records as appended to the petition as well as memo of revision placed during pendency of the instant petition through specific supplementary affidavit, it is crystal clear that no proceedings has ever been instituted under Section 67(5) of U.P. Revenue Code, 2006 and, as such, the observation made by co-ordinate Bench of this Court was absolutely legal and having regard to the same, order dated 21.06.2023 passed by learned Board of Revenue is hereby set aside. Matter is remitted before Board of Revenue for deciding afresh the revision preferred by the petitioner as expeditiously as possible, preferably within the period of six months from the date of production of a certified copy of this order.

7. The writ petition is allowed.

Order Date :- 16.11.2023

P.Sri.