

Court No. - 52

Case :- WRIT - C No. - 30431 of 2021

Petitioner :- Rajaram

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

Counsel for Petitioner :- Ram Nath

Counsel for Respondent :- C.S.C., Hari Narayan Singh

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Ram Nath, learned counsel for the petitioner and Sri Dhananjay Singh, learned Standing Counsel, appearing for respondents no. 1, 2 and 3.

2. It is the case of the petitioner that he has already preferred an application under Section 38(2) of U.P. Revenue Code, 2006 for correction of revenue map pertaining to Plot No. 2029 situated in Village Terajakat, Tehsil Chhibramau, District Kannauj. During the pendency of the application preferred by the petitioner, specific report was submitted by the Settlement Officer (Consolidation) on 23.01.2018, stating therein that certain area of plots no. 241, 242 and 243 are excess over the spot and the same can be adjusted for compensating lesser area of 0.18 dismal of plot no. 2029.

3. At the time of final adjudication by Addl. District Magistrate (F&R), the application preferred by petitioner under Section 38(2) of the U.P. Revenue Code, 2006 has been rejected by order dated 05.07.2019 only on the ground that report submitted by the Consolidation Officer (Settlement) is not acceptable. Learned counsel for the petitioner submitted his arguments that no cogent reasons or any specific finding has been recorded by the Addl. District Magistrate (F&R) while holding that report submitted by Settlement Officer (Consolidation) is not liable to be accepted. Being aggrieved with the order dated 05.07.20219 passed by Addl. District Magistrate (F&R), petitioner preferred revision before respondent no. 2 in the shape of Case No. 01563 of 2019 (Raja Ram Vs. Land Management Committee) under Section 210 of U.P. Revenue Code, 2006 and the same was also dismissed by way of supporting order passed by Addl. Commissioner (Administration) with the reasoning that if the area which has been determined as less in plot no. 2029 will be compensated by the excess area of other plots in pursuance to the report dated 23.01.2018, the *Chak Marg* will be adversely effected.

4. After hearing the arguments, as advanced by learned counsel for the parties, the adjudication made by Addl. District Magistrate over the application preferred by petitioner under Section 38(2) was not justified only by way of saying that the report submitted by Settlement Officer (Consolidation) is not acceptable, inasmuch for denial of the report submitted by the competent authority, the Addl. District Magistrate has to substantiate his finding with proper reasoning and plausible cause which persuaded his determination to deny the report submitted by the concerned authority. The adjudication made by respondent no. 2 over the revision preferred under Section 210 of U.P. Revenue Code, 2006 by the petitioner wherein it has been mentioned that if the area of plot no. 2029 shall be compensated, the same shall adversely effect to the *Chak Marg* is also without any proper reasoning since no such finding has ever been submitted in the report of Settlement Officer (Consolidation) whereas contrary finding has been submitted by the Settlement Officer (Consolidation) that if the area shall be compensated, it will have no effect over the *Chak Marg*.

5. In view of the facts and circumstances, determination made by authorities while adjudicating application under Section 38(2) and revision under Section 210 of U.P. Revenue Code, 2006 preferred by the petitioner is apparently illegal and contrary to report dated 23.01.2018 submitted by Settlement Officer (Consolidation) which has to be taken into consideration, and thus both the orders are liable to be set aside.

6. In the result, the writ petition is allowed. The order dated 05.07.2019 passed by Addl. District Magistrate (F&R) and the order dated 22.07.2021 passed by Addl. Commissioner (Administration), respondent no. 2 are hereby set aside. Collector, Kannauj is hereby directed to act upon the report submitted by Settlement Officer (Consolidation) dated 23.01.2018 by way of correcting the revenue map as expeditiously as possible, preferably within a period of three months from the of production of a certified copy of this order.

Order Date :- 6.11.2023
P.Sri.