

Court No. - 49

Case :- WRIT - B No. - 3016 of 2023

Petitioner :- Ravindra Kumar @ Ravindra Singh

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Awadh Behari Singh

Counsel for Respondent :- C.S.C.,Ritesh Singh,Suresh Singh

Hon'ble Syed Qamar Hasan Rizvi,J.

1. Heard Sri Awadh Behari Singh, learned counsel for the petitioner, Sri Dinesh Kumar Verma, learned Standing Counsel for the State-respondent nos. 1 to 4 and Sri Suresh Singh, learned counsel appearing on behalf of respondents no. 5 to 8.

2. The present writ petition has been filed challenging the order dated 13.07.2023 passed by the Board of Revenue (respondent no.2) by means of which the revision filed by the present respondents has been allowed.

3. The contention of the learned counsel for the petitioner is that the aforesaid revision bearing No. REV/1149/2023 (Computerized Case No. R20230520001149, filed under Section 210 of the U.P. Revenue Code, 2006 was not at all maintainable as the same was filed against an interlocutory order passed by the Nayab Tehsildar, Tehsil- Salempur, District- Deoria (respondent no.4) in the proceedings under Section 34 of U.P. Revenue Code, 2006 and as such the order dated 13.07.2023 passed by the Board of Revenue is not sustainable in law. He further submits that apart from the jurisdictional error, the Board of Revenue has passed the impugned order without issuing the notices to the opposite parties who are the petitioners in the present writ petition and without summoning or perusing the lower court records has finally decided the aforesaid revision on the very first date of hearing and as such the petitioner was denied the opportunity to raise his objections including the objection of the maintainability of the revision and was deprived of his right to defence before the Revisional Court.

4. After arguing the case at some length, learned counsel for the petitioner confined his prayer to the extent that this Court may issue a writ of mandamus directing the respondent no.4 to expeditiously decide his pending application for restoration within a time frame fixed by this Court.

5. Learned Additional Chief Standing Counsel submits that he has no objection to the extent that a direction be issued to the respondent no.4 to consider and decide the pending restoration application within the time frame as fixed by this Court.

6. Learned counsel appearing for respondents no. 5 to 8 has opposed the petition on the ground that the restoration application filed by the petitioner itself is based on incorrect facts.

7. Paragraph 479 of the U.P. 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."

8. Considering the aforesaid 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. Accordingly, this Court deems it appropriate to finally dispose of the present writ petition with a direction to the Nayab Tehsildar, Tehsil- Salempur, District- Deoria (respondent no.4) to expeditiously decide the pending restoration in Case No. RST/3780/2022 (Computerized Case No. T202205200203780), after taking into consideration the objections, if any, filed by the private respondents no. 5 to 8 after affording them due opportunity to press their objections; by a reasoned and speaking order, in accordance with law preferably within a period of three months from the date of receipt of certified copy of this order.

9. It is provided that till the disposal of the aforesaid application for restoration, the operation and implementation of the order dated 07.09.2022 passed by the Nayab Tehsildar concerned shall remain in abeyance. It is made clear that the parties shall not create any third party right in respect of the property in dispute.

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

Order Date :- 18.10.2023

Anurag/-