Court No. - 40

Case :- WRIT - C No. - 29364 of 2023

Petitioner :- Shiv Lal
Respondent :- State Of U P And 3 Others
Counsel for Petitioner :- U.C. Chaturvedi,Yashvant Kumar Venvansh
Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.
Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and Shri S.C. Upadhyay, learned Standing Counsel for the State-respondents.

2. The petitioner has prayed for the following reliefs :-

"(i) issue a writ, order or direction in the nature of certiorari quashing the impugned order dated NIL passed by respondent no. 4- Sub-Divisional Forest Officer, Obera, District- Sonbhadra.

(ii) issue a writ, order or direction in the nature of mandamus directing the respondent authorities not to interfere in the peaceful possession of the petitioner over the land in question."

3. The petitioner belongs to Scheduled Tribe category. It is claimed that the petitioner has occupied the Gata No. 7576-M (area 0.759 hectare) and he submitted claim under Section 11(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 on the ground that he is in possession over the said land from last 25 years and only this ground, the order passed by the Sub-Divisional Officer, is assailed.

4. Per contra, learned Standing Counsel vehemently opposed the writ petition and submits that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as "Act, 2006") provides exhaustive procedure for settling the rights to the forest dwelling scheduled tribes and other traditional forest dwellers within the local limits of its jurisdiction under the Act by receiving claims, consolidating and verifying them and preparing in map, delineating the area of each recommended claims in such manner as may be prescribed for exercise of its rights and the Gram Sabha, shall, then pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee as per Section 6 of the Act, 2006. He further submits that even the order passed by the Sub-Divisional Forest Officer, the petitioner has got efficacious remedy

under the Act, 2006. The disputed facts cannot be pressed and decided under the writ jurisdiction.

5. Learned Standing Counsel further submits that any person aggrieved by the resolution of Gram Sabha, may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha. Provided further that no such petition shall be disposed of against the aggrieved person unless he has been given an opportunity to present his case. Sub-section (3) of Section 6 further provides the State shall constitute Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through Sub-Divisional Office to the District Level Committee for final decision. Even person aggrieved by the decision of the Sub-Divisional Level Committee, he may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition. The decision of District Level Committee and record of forest rights shall be final and binding. Therefore, it is submitted that once the exhaustive procedure is given therein for settling the forest rights under Section 6 of the Act, 2006, in case, petitioner is aggrieved by an order dated NIL, he has got efficacious remedy to press the relief before the higher forum.

6. Considering the facts and circumstances, without adverting to the merits of the case, in case, petitioner prefers a petition before the higher forum within thirty days from today, the same would be considered on merits. Suffice to indicate that the Court has not adverted on the merits of the case

7. With the aforesaid observation, the writ petition stands **disposed of**.

Order Date :- 16.10.2023
Rama Kant

Digitally signed by :-
RAMAKANT
High Court of Judicature at Allahabad