

Court No. - 49

Case :- WRIT - B No. - 3108 of 2023

Petitioner :- Mansura Begum

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

Counsel for Petitioner :- Kamla Kant Mishra

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

Hon'ble Syed Qamar Hasan Rizvi,J.

1. Learned counsel for the petitioner prays for and is allowed to implead the Board of Revenue, U.P. at Allahabad as respondent no.9 as a necessary party during the course of the day.

2. Heard Shri Kamla Kant Mishra, learned counsel for the petitioner, Shri Avnish Kumar Shukla, learned Standing Counsel for the State-respondents no. 1 & 2, Shri Himanshu Shukla, learned Advocate holding brief of Shri Bhupendra Kumar Tripathi, learned counsel for the respondent no.3-Gaon Sabha and perused the record.

3. The instant writ petition has been filed, *inter alia*, for the following relief:

"I. Issue a writ, order or direction in the nature of Certiorari to quash the ex-parte order dated 17.07.2023 passed by Member (Judicial) Board of Revenue U.P. at Prayagraj in Revision No. 290 of 2021 (Kalim Ahmad Vs. Sub-Divisional Magistrate and others) under section 210 of U.P. Revenue Code, 2006.

II. Issue a writ, order or direction in the nature of Mandamus directing the respondents not to interfere in actual physical possession of petitioner in pursuance of the ex-parte order dated 17.07.2023 passed by Member (Judicial) Board of Revenue U.P. at Prayagraj.

III. Issue a writ, order or direction in the nature of Mandamus to call for the record of the court below of revision no. 290 of 2021 (Kalim Ahmad Vs. Sub-Divisional Magistrate and others)."

4. The contention of the learned counsel for the petitioner is that the revision No. 290 of 2021 (Kalim Ahmad Vs. Sub-Divisional Magistrate and others) under Section 210 of the U.P. Revenue Code, 2006 is pending before the Board of Revenue (respondent No.9).

5. The respondent no.4 (Kaleem Ahmad) has filed a revision under Section 290 of the U.P. Revenue Code, 2006 which has been registered as REV/290/2021, against the order dated 18.01.2021 passed by the Sub-Divisional Officer (respondent no.2) under Section 35(2) of the U.P. Revenue Code, 2006,.

6. The contention of learned counsel for the petitioner is that the petitioner filed objection regarding maintainability of the said revision which has yet not been decided by the Board of Revenue (respondent no.9). He submits that on an application for interim relief filed by respondent no.4 (Kaleem Ahmad), the learned Board of Revenue (respondent no.9) passed an interim order dated 17.07.2023 staying the operation and implementation of the order dated 18.01.2021 passed by the Sub-Divisional Officer (respondent no.2) and also stayed the proceeding till the next date with a further direction to the parties not to change the nature of the property by maintaining status quo in respect of the possession. It has further been provided that no third party right shall be created in respect of the property in question.

7. The submission of learned counsel for the petitioner is that the said impugned interim order dated 17.07.2023 has been passed without affording any opportunity of hearing to the petitioner.

8. After arguing the matter at some length, learned counsel for the petitioner submitted that, at this stage, he does not want to press the prayers no.1 & 2. He further submits that since the order dated

17.07.2023 has been passed without affording any opportunity of hearing and raising objections, to the petitioner, as such she may be granted liberty to file appropriate application for the vacation of the interim order dated 17.07.2023, with a direction to the Board of Revenue (respondent no.9) to decide the same expeditiously.

9. In view of the nature of the order proposed to be passed, the service of notice upon the respondent nos. 4 to 8 is dispensed with.

10. Since the next date fixed in the case before the Board of Revenue (respondent no.9) is 04.01.2024, this Court is of the view that no useful purpose would be served in keeping this writ petition pending.

11. Accordingly, without advertent on merits of the case and with the consent of the parties, this Court deems it appropriate to finally dispose of the writ petition with a direction to the learned Board of Revenue (respondent No. 9), before whom the aforementioned revision is pending for disposal, that in case the petitioner moves an application for vacation of the interim order dated 17.07.2023 within a period of one week from today, the same shall be considered and decided, strictly in accordance with law, by a reasoned and speaking order after affording opportunity of hearing to the parties concerned; expeditiously and preferably on the next date fixed i.e. 04.01.2024 or within a maximum period of **three months** from the date of receipt of a certified copy of this order, unless there is any legal impediment. It is further provided that no unnecessary adjournment shall be granted to either of the parties, unless the same is unavoidable.

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

Order Date :- 7.11.2023//Anurag/-