

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2209 of 2023

Petitioner :- Anil Kumar Tripathi

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Sanjai Singh, Mayank Shekhar Singh

Counsel for Respondent :- C.S.C., Azad Rai

Hon'ble Chandra Kumar Rai, J.

1. Heard learned Counsel for the petitioner, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Azad Rai, learned counsel for the respondent- Gram Panchayat.

2. The instant public interest litigation has been filed for mandamus for taking appropriate decision for expunging the revenue entry of plot no.22Ka and 22Kha situated in the Village- Bhupatti, Pargana Kewai, Tahsil- Handia, District- Prayagraj.

3. Counsel for the petitioner submitted that during consolidation operation Plot No.22 Ka and 22 Kha (old Plot No.108) were recorded as Bheeta and Banjar but in the subsequent khatauni the same were recorded in the name of certain persons which requires correction. He further submitted that applications were filed on behalf of petitioner for correction but no steps has been taken by the authorities.

4. On the other hand Mr. Abhishek Shukla learned Additional Chief Standing Counsel for the state submitted proper proceeding should be initiated for correction of revenue entries rather Misc. Application before the authorities or writ petition before this Court as such writ petition filed by petitioner is liable to be dismissed as not maintainable.

5. I have considered the argument advance by learned counsel for the parties and perused the record.

6. there is no dispute about the fact that plot in dispute is recorded in the name of certain private person.

7. In order to appreciate the controversy the perusal of Sections 32 & 38 of U.P. Revenue Code, 2006 will be relevant which are as under:-

"U.P. revenue Code, 2006

32. Correction of records.—(1) Subject to the control of the Collector, the Sub-Divisional Officer, the Tahsildar, or the Revenue Inspector shall record, in the manner hereinafter provided in this chapter, all changes in the record of rights (Khatauni), the field book (Khasra) and the map that may take place, and all transactions that may affect any of the rights or interests recorded, and correct therein any error proved to have been made in the records previously prepared:

[Provided that order for correction in map shall be passed by the Collector.]

(2) No application for correction of error under sub-section (1) where the claim is based solely on possession as well as involving intricate question of title shall be maintainable.

38. Correction of error and omission.—*(1) An application for correction of any error or omission in the map, field-book (Khasra) or record of rights (Khatauni) shall be made to the Tahsildar in the manner prescribed.*

[(2) On receiving an application under sub-section (1) or on any error or omission otherwise coming to his knowledge, the Tahsildar shall make such inquiry as may appear to him to be necessary, and refer the case along with his report to the Collector in the case of map correction and to the Sub-Divisional Officer in matter of other correction.

(3) The case shall be decided by the Collector or the Sub-Divisional Officer, as the case may be, after considering any objection filed and evidence produced before him or before the Tahsildar.

(4) Any person aggrieved by an order of the Collector or the Sub-Divisional Officer, as the case may be, under sub-section (3), may prefer an appeal to the Commissioner within a period of thirty days from the date of such order, and [The decision of the Commissioner shall, subject to the provisions of Section 210, be final].

[(5) Any forged or manipulated entry in the map, the khasra or the record of rights (khatauni) may be expunged under this section.

(6) Notwithstanding anything contained in other provisions of this Code, the Revenue Inspector may correct any undisputed error or omission in the record of rights (khatauni) or khasra in such manner and after making such inquiry, as may be prescribed.]

Explanation.—*The power to correct any error or omission under this section shall not be construed to include the power to decide a dispute involving question of title."*

8. In view of the provision contained under Sections 32 & 38 of U.P. Revenue Code, 2006, the Misc. Application filed by petitioner cannot be entertained or writ application under Article 226 of the Constitution of India can not be entertained for correction of revenue entry in respect to the plots on which certain persons are recorded and opportunity of hearing is required before expunging the name of recorded person.

9. Considering the entire facts and circumstances no interference is required in the matter. The instant Public Interest Litigation is accordingly dismissed.

Order Date :- 31.10.2023

Rameez