

Court No. - 48

Case :- WRIT - B No. - 3146 of 2023

Petitioner :- Ambika Prasad And 6 Others

Respondent :- State Of U.P. And 19 Others

Counsel for Petitioner :- Adya Prasad Tewari, Shubham Dwivedi

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Shyam Shamschery, J.

1. Heard Sri A.P. Tiwari, learned counsel for petitioners and Sri Sudhanshu Pandey, Advocate for contesting-respondents.
2. Limited issue before this Court is, whether in the facts and circumstances of present case, Deputy Director of Consolidation while interfering with the order passed by Appellate Authority has rightly set aside the order passed by Appellate Authority as well as Consolidation Officer and remitted the case to Consolidation Officer on ground that all issues framed were not decided?
3. Learned counsel for petitioners submits that since Appellate Authority's order has been interfered, therefore, it ought to be remitted to Settlement Officer of Consolidation, whereas counsel for contesting-respondents submits that since all the issues were not decided, therefore, appropriate authority to decide the case would be Consolidation Officer.
4. Heard learned counsel for parties and perused the material available on record.
5. Consolidation Officer has initially framed five issues, however, the order has been passed on two issues. All the contentions were raised before Appellate Authority but it appears that Appellate Authority has returned a perverse finding that all issues framed were decided and passed a very cryptic order, therefore, Revisional Authority has rightly interfered

with the order passed by Appellate Authority. However, instead of remitting the case to Consolidation Officer it would be appropriate to remit it to Settlement Officer of Consolidation so that Appellate Authority, who has ample power even to call evidence afresh or frame issues, can decide case on merit.

6. In view of above, writ petition is partly allowed. Impugned order dated 22.08.2023 is modified to that extent that only order dated 05.05.2017 is set aside and matter is remitted back to Settlement Officer of Consolidation to decide case afresh. Appellate Authority will conclude proceedings within a period of from months from today, if there is no legal impediment. The question of interim order will also be considered by Appellate Authority.

Order Date :- 6.11.2023

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