Court No. - 52

Case :- WRIT - C No. - 33899 of 2023

Petitioner :- Raj Kumar
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Kapil Dev Dubey,Pratikdhar Dwivedi,Rahul Kumar
Counsel for Respondent :- CSC,Bhupendra Kumar Tripathi,Brij Kishor,Sudhir Bharti

Hon'ble Saurabh Srivastava,J.

1. At the very outset, learned counsel for the petitioner prayed and allowed to array Tehsildar, Sadar, District Jaunpur as one of the respondents since the same has been inadvertently left at the time of institution of the present petition.

2. Necessary incorporation shall be carried out during course of the day.

3. Heard Sri Rahul Kumar Shukla, learned counsel for petitioner and Sri Anjani Kumar Chaurasiya, learned Additional Chief Standing counsel for State respondents.

4. The present petition has been instituted for challenging the order dated 21.08.2023 passed by respondent no. 2 under Section 67(5) of U.P. Revenue Code, 2006 being the appellate authority through which the matter has been remitted back to the concerned Tehsildar for deciding afresh.

5. By bare perusal of the records, it is apparent that the appeal has been preferred for challenging the order dated 20.11.2021 passed by Tehsildar, Sadar, District Jaunpur under Section 67 of U.P. Revenue Code, 2006. The adjudication made by the concerned Tehsildar was in favour of the petitioner and the determination was on the basis of the sustainability over the plot in question by the petitioner for considerable period of time, meaning thereby protection under Section 67(A) of U.P. Revenue Code, 2006 has been extended in favour of the petitioner, but at the time of deciding the appeal the vital question with regard to eligibility of the petitioner as well as longevity of holding property only for residential purpose has not been considered while passing the order which impugned the present petition. Order dated

21.08.2023 arises cause of action in favour of the petitioner for challenging the same before this Court through the instant petition.

6. At the time of admission, co-ordinate Bench of this Court directed learned Additional Chief Standing counsel for seeking instructions specifically with regard to the eligibility of the petitioner and in response Sri Anjani Kumar Chaurasiya, learned Additional Chief Standing counsel came up with the instructions received from Sub Divisional Officer, Sadar, District Jaunpur which is taken on record and copy of the same has been provided to learned counsel for the petitioner, through which it has been transpired that the petitioner falls under the category of eligible person to be accommodated within the limited area of any plot pertains to Gaon Sabha being the landless labourer residing at village Dadauli, District Jaunpur.

7. On the agreement of learned counsels appearing for the parties, without disturbing the order challenged in the writ petition, respondent no. 4 is hereby directed to re-adjudicate the matter as directed by the respondent no. 2 in the light of the instructions so received. Learned counsel for the petitioner is hereby requested to apprise respondent no. 4 with regard to the instructions as provided through learned Additional Chief Standing counsel within next 15 days and the entire exercise shall be finalized as directed by respondent no. 2 by the respondent no. 4 as expeditiously as possible preferably within a period of four months from the date of production of certified copy of this order.

8. Writ petition stands ***disposed of*** accordingly.

Order Date :- 23.11.2023
Shaswat

Digitally signed by :-
SHASWAT SINGH
High Court of Judicature at Allahabad