

Court No. - 40

Case :- WRIT - C No. - 32683 of 2023

Petitioner :- Ambika Singh Alias Lal Nath And 8 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Krishna Chandra Pandey

Counsel for Respondent :- CSC

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Krishna Chandra Pandey, learned counsel for the petitioners and Sri Sharad Chandra Upadhyay, learned Standing Counsel for the State-respondents.

2. Present writ petition has been preferred for following reliefs:-

"(I) Issue a writ, order or direction in the nature of mandamus commanding/ directing the respondent no.3 (Survey Naib Tehsildar, Tehsil Ghorawal, District Sonbhadra) to record the name of petitioners in survey record/ Khatauni expunging the name of Forest Department in pursuance of the order dated 23.6.1989 passed by respondent no.4 in Case No.27 of 1988 (Ambika Singh & Ors. v. Forest Department and others) under the proceeding of Section 6/9 of India Forest Act, within span of time as fixed by this Hon'ble Court.

II. Issue a writ, order or direction in the nature of mandamus directing the respondent no.3 (Survey Naib Tehsildar, Tehsil Ghorawal, District Sonbhadra) to decide the application dated 20.5.2019 submitted by the petitioners with speaking and reasoned order within stipulated period as fixed by this Hon'ble Court."

3. Present matter relates to Araj No. 92-Gha Area 94.2540 Hectare situated at Mauja Marani, Pargana Badahar, Tehsil Ghorawal, District Sonbhadra. Learned counsel for the petitioners has contended that similar situated persons have preferred Writ-C No.64774 of 2015 (Avadh Singh & Ors. v. State of U.P. & Ors.) contending that an order dated 25.7.1998 has already been passed declaring the right and title of the petitioners under Section 6 and 9 of India Forest Act based on which the petitioners have applied mutation under Section 34 of the U.P. Land

Revenue Act before the Tehsildar, which is pending consideration. The said writ petition was disposed of on 3.12.2015 directing the authority concerned to pass a reasoned and speaking order. Similar indulgence has also been accorded by this Court in Writ-C No.40440 of 2016 (Ram Lagan Singh & Ors. v. State of U.P. & Ors.) vide order dated 30.8.2016. As such it is contended that the petitioners being on similar footing are also entitled for similar indulgence.

4. In response to previous orders, learned Standing Counsel has produced the detailed instructions dated 2.12.2023 sent by the Divisional Forest Officer, Mirzapur, which is taken on record. On the basis of instructions, he submits that entire claim has been set up by the petitioners on the basis of fictitious documents. He has placed reliance on the questionnaire, which has been issued by the Forest Settlement Officer, wherein it is informed that case no. 27 of 1988 (Ambika Singh and Others Vs. Forest Department and Others) under section 6/9 of the Forest Act had never been filed. Various orders had been obtained from the Court for mutation for their holding on the basis of frivolous order under section 6 read with section 9 of the Forest Act. He has also placed reliance on the order dated 02.07.1999 passed by the Forest Settlement Officer, Sonbhadra, wherein he has stated that at no point of time any orders were passed under Section 6/9 of the Forest Act. He further apprises that even C.B.C.I.D. enquiry has also been directed in the matter, which is pending consideration. Lastly he has placed reliance on the judgment passed by Hon'ble the Apex Court in **State of U.P. Vs. The Deputy Director of Consolidation and Others AIR 1996 SC 2432**, wherein the petitioner claimed certain rights on the basis of provisions under Uttar Pradesh Abolition and Land Reforms Act, 1951, on the forest land and the same has been answered in paragraph no. 10 of the said judgment which reads as under:-

"It is thus obvious that the Forest Settlement Officer has the powers of a civil court and his order is subject to appeal and finally revision before the State Government. The Act is a complete code in itself and contains elaborate procedure for declaring and notifying a reserve forest. Once a

notification under Section 20 of the Act declaring a land as reserve forest is published, then all the rights in the said land claimed by any person come to an end and are no longer available. The notification is binding on the Consolidation Authorities in the same way as a decree of the civil court. The respondents could very well file objections and claims including objection regarding the nature of the land before the Forest Settlement Officer. They did not file any objection or claim before the authorities in the proceedings under the Act. After the notification under Section 20 of the Act, the respondents could not have raised any objections qua the said notification before the Consolidation Authorities. The Consolidation Authorities were bound by the notification which had achieved finality."

5. In this backdrop, learned Standing Counsel states that the present writ petition is preferred on the basis of fictitious documents and as such the same is liable to be dismissed with exemplary cost. Moreover, the C.B.C.I.D inquiry is also going on and, therefore, no interference is required in the matter at this stage.

6. Considering the aforementioned facts and circumstances as well as the categorical instructions, we find that highly disputed facts have been raised before this Court, which cannot be adjudicated under Art.226 of the Constitution of India and as such we are not inclined to interfere in the matter at this stage.

7. The writ petition stands **dismissed** accordingly.

Order Date :- 6.12.2023

Vikram