

Court No. - 52

Case :- WRIT - C No. - 54946 of 2017

Petitioner :- Ram Chandar

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Vinod Kumar Maurya, Bhola Nath Yadav, Dharmendra Kumar Nirankar, Sanjay Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Pursuant to this Court's order dated 26.10.2023, respondents no. 4 and 6 are present.
2. Heard Sri Bhola Nath Yadav, learned counsel for the petitioner and Sri Raj Kumar Singh, learned Standing Counsel representing the respondents no. 1 to 6.
3. Factual matrix of the matter, as submitted through this petition, are that in the life time of respondent no. 7, he received the consideration in respect of plot no. 218 area 0.131 dismal from the petitioner and the same has been submitted before Sub-Registrar, Machhalishahar, District Jaunpur in the shape of sale-deed for registration whereupon two witnesses put their signature and at the time of submitting the document for getting the same registered, the finger prints along with short statement has been recorded in the record of Sub-Registrar, Machhalishahar, District Jaunpur. After receiving the original copy of the deed, the same has been sent to the Office of Addl. District Magistrate (F&R), District Jaunpur since at preliminary instance, certain deficiency in stamp has been noticed by the concerned officials of the office of Sub-Registrar, Machhalishahar, Jaunpur.
4. From the office of ADM (F&R), District Jaunpur, no report has ever been received in the office of Sub-Registrar, Machhalishahar, Jaunpur with regard to any deficiency, as pointed out, in the shape of submitting stamp duty by the petitioner while seeking registration of sale-deed presented by him.
5. It is admitted case that petitioner is permanently resides in Mumbai and as such he could not pursue the matter on routine basis by way of reminding the office of Sub-Registrar, Machhalishahar, Jaunpur for seeking registration of the document in the shape of sale deed between the petitioner and the respondent no. 7. Office of Sub-Registrar, Machhalishahar, Jaunpur never persuaded the matter which has already been sent to the office of ADM (F&R).
6. Sri Raj Kumar Singh, learned Standing Counsel, submitted that there is hardly any practice and procedure available in the office of Sub-Registrar in pursuing the

matter which has been sent to the office of ADM (F&R), which culminated in the pendency of the matter initiated at the behest of the submission of stamp duty and registration charges by the petitioner for getting the document in the shape of the sale-deed to be registered before Sub-Registrar, Machhalishahar, Jaunpur.

7. Ultimately, in the year 2016 an application under Right to Information Act with regard to seeking information about the sale-deed presented before the office of Sub-Registrar, Machhalishahar, Jaunpur was preferred in response whereof it has been informed by the Tehsildar, Tehsil Machhalishahar, District Jaunpur that there occurred outbreak of fire in the year 2000 and as such it might be possible that document which is required by the petitioner was also misplaced due to mishappening occurred way back in the year 2000.

8. The report dated 24.09.2020 submitted by Sub-Divisional Officer, Machhalishahar, District Jaunpur, which is appended along with counter affidavit as Annexure CA-2, reveals that the matter was listed till 2003, at Sl.No. 152 matter has been serialized but nothing has been determined or initiated and there is no trace of the file. Being aggrieved with the action of the responding authorities, petitioner preferred instant writ petition for seeking mandamus against responding authorities for receiving copy of the sale-deed which was presented in the office of Sub-Registrar, Machhalishahar, Jaunpur. Although, it has been submitted by learned counsel for the petitioner that immediately after receiving consideration on 06.10.1995, respondent no. 7 handed over the possession of the same and the petitioner is still in possession of plot no. 218 situated in village Sakhwat, Tehsil Machhalishahar, District Jaunpur, during the pendency of instant writ petition, respondent no. 7 proceeded for heavenly abode and with the permission of the Court respondent no. 7/1 has been arrayed as one of the respondents being the legal heir of respondent no. 7. Notices have been issued but as per office report dated 30.05.2023, RPAD notice issued to respondent no. 7/1, office copy along with postal receipt have been kept on record, as per record of Section, both undelivered notices and acknowledgements have been returned in the office and as per CIS status, no vakalat-nama or counter affidavit has been filed on behalf of respondent no. 7.

9. Once notices have been returned undelivered, the same is presumed as proper service of notice upon respondent no. 7/1 and as such findings and directions contained in the instant order shall be binding on respondent no. 7/1 also. However, in case any legal or enforceable rights of respondent no. 7/1 are being adversely effected, respondent no. 7/1 shall be at liberty to prefer recall of the instant order.

10. Considering the facts and circumstances and the submissions advanced above, respondent no. 6 is hereby directed to provide all the record pertaining to instrument which has been produced in the shape of sale-deed for registration by the petitioner and all those documents shall bear the attestation of certification by the respondent no. 6 itself.

11. So far as adversity and complexity caused due to non protecting the record in the shape of sale-deed presented by the petitioner for registration, moreover as per the averments exchanged during the pendency of the instant writ petition, it is crystal clear case of careless attitude while rendering services on sensitive and important position shown by respondents no. 3 and 6, who are rendering important duty. At the same time, respondent no. 4 has also submitted the report with regard to pendency of the matter till 2003 and as such outbreak of fire cannot be taken as a shield for negligence attitude and services rendered by respondent no. 4 himself.

12. Petitioner has been harassed only because of the dereliction of duty attributed by respondents no. 3, 4 and 6. Every document related to the presentation of the sale-deed performed between petitioner and respondent no. 7 will be treated at par with the registered sale-deed and in respect of the adjudication whatsoever will arrive in future, the authorities are hereby directed to consider the same in the light of the order made above.

13. The writ petition stands disposed of, accordingly.

14. It is, however, made clear that part of directions issued against respondent no. 6 shall be carried out as expeditiously as possible, preferably within a period of four weeks from the date of production of certified copy of this order before him.

15. The observations made above against responding authorities shall not be subjected to any disciplinary proceedings as well as the same shall not be mentioned in the their service record.

16. Personal appearance of the officers present is exempted.

Order Date :- 6.11.2023

P.Sri.