

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 6566 of 2022

Applicant :- Lakhan And 5 Others

Opposite Party :- Bhupat And 3 Others

Counsel for Applicant :- Aditya Shukla

Counsel for Opposite Party :- Jai Singh Parihar

Hon'ble Rohit Ranjan Agarwal,J.

1. Rejoinder affidavit filed today is taken on record.
2. A writ petition was filed by the opposite parties being Writ-B No. 872 of 2019 wherein an interim order was granted on 26.04.2019 which is as under;

"Heard learned counsel for the petitioner.

Shri Rakesh Kumar Shukla, Advocate, representing respondent Nos. 4 to 10 prays for and is granted four weeks' time to file his counter affidavit. The petitioner shall have three weeks thereafter to file his rejoinder affidavit.

List after expiry of the aforesaid period. Meanwhile, the parties shall maintain status quo regarding the suit property, i.e., the property in Case No. 217/98-99 and 105/2002-03."

3. The matter was again listed on 23.07.2019 and the applicants had put their appearance through their counsel Sri Rakesh Kumar Shukla, who did not appear even in the revised call and no counter affidavit was filed. The writ Court on 23.07.2019 extended the interim order granted on 26.04.2019 until further orders and following order was passed;

"Learned counsel appearing for respondent Nos. 4 to 10 was granted four weeks time to file a counter affidavit. When the case is called on, no one appears on behalf of the said respondents. The name of Sri Rakesh Kumar Shukla, appearing for the said respondents is shown in the cause list.

This petition arises from the decision of a suit under Section 229-B U.P. Zamindari Abolition and Land Reforms Act. The issue involved is whether the suit property is a self acquired and separate property of Punnu son of Ganesh, grandfather of the petitioner or it is a part of the joint khata where respondent Nos. 4 to 10 are co-sharers. It is urged that the Trial Court had categorically held the land to be in the bhumidhari of Punnu son of Ganesh, the petitioner's father on the basis of evidence on record, but the First Appellate Court relying on some mutation entry that was not objected to in mutation proceedings by the petitioners, showing the contesting respondents

as co-sharers reversed the Trial Court's decree without specifically reversing the findings of the Trial Court. This decree of First Appellate Court has been affirmed in Second Appeal by the Board of Revenue.

Admit.

Issue notice.

Learned counsel appearing for respondent Nos. 4 to 10 is granted ten days and no more time to file a counter affidavit.

List this case for orders on 16.08.2019 along with an office report regarding status of pleadings.

The interim order dated 26.04.2019 is extended until further orders."

4. From perusal of the order it appears that the status-quo order was granted in favour of the opposite parties. Present contempt application has been filed by the applicants, who are contesting respondents in the writ petition, claiming violation of interim order on the strength that they were in possession and have been dispossessed by the opposite parties.

5. This Court finds that the applicants, who are contesting respondents in the writ petition, had not appeared during writ proceedings and never objected to the status-quo order passed in favour of the opposite parties.

6. In view of the said fact, this Court finds that no case for contempt is made out as the status-quo order has been passed in favour of the opposite parties, who are the petitioners in the writ proceedings.

7. Contempt application stands dismissed.

8. Contempt notice stands discharged.

9. File consign to record.

Order Date :- 16.11.2023

Shekhar