

Court No. - 51

Case :- WRIT - C No. - 33244 of 2023

Petitioner :- Jai Kumar Singh

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

Counsel for Petitioner :- Sharad Chand Rai

Counsel for Respondent :- C.S.C.,Sunil Kumar Singh

Hon'ble Chandra Kumar Rai,J.

1. Heard Mr. Sharad Chand Rai, learned counsel for the petitioner, Mr. O. P. Sharma, learned Additional Chief Standing Counsel for the State Respondents and Mr. Sunil Kumar Singh, learned counsel for Land Management Committee.
2. The instant petition has been filed against the impugned order dated 28.10.2022 passed by Sub-Divisional Officer under Section 24 of U.P. Revenue Code, 2006 as well as order dated 19-08-2023 passed by Additional Commissioner, Meerut Division, Meerut.
3. Learned counsel for the petitioner submitted that proceeding under Section 24 of U.P. Revenue Code, 2006 has been decided in arbitrary and ex parte manner. He further submitted that jurisdiction has been exercised without considering the scope of Section 24 of U.P.Revenue Code, 2006. He further submitted that since order has not been passed after affording reasonable opportunity of hearing, as such the remedy of revision under Section 210 of U.P.Revenue Code, 2006 will not come in the way of the petitioner to challenge the impugned order under Article 226 of the Constitution of India.
4. On the other hand, learned Additional Chief Standing counsel as well as learned counsel for the Land Management Committee submitted that impugned orders have been passed in accordance with law. They further submitted that petitioner

himself has filed application under Section 24 of U.P. Revenue Code, 2006 as well as appeal under Section 24 (4) of U.P. Revenue Code, 2006 which has been decided after hearing learned counsel for the petitioner before the court concerned, as such, it cannot be said that order has been passed in ex parte manner. They further submitted that petitioner can file revision against the order impugned, rather writ petition before this Court, as such, writ petition is liable to be dismissed.

5. I have considered the argument advanced by learned counsel for the parties and peruse the record.

6. There is no dispute about the fact that application under Section 24 of U.P. Revenue Code, 2006 has been dismissed vide order dated 28.10.2022 and appeal filed under Section 24 (4) of U.P. Revenue Code, 2006 has also been dismissed vide order dated 19.8.2023.

7. In order to appreciate the controversy, perusal of Section 24 (4) of U.P. Revenue Code, 2006 will be relevant which is as under:

"24 Disputes regarding boundaries. -

(1) The Sub-Divisional Officer may, on his own motion or on an application made in this behalf by a person interested, decide, by summary inquiry, any dispute regarding boundaries on the basis of existing survey maps or, where they have been revised in accordance with the provisions of the Uttar Pradesh Consolidation of Holdings Act, 1953, on the basis of such maps, but if this is not possible, the boundaries shall be fixed on the basis of actual possession.

(2) If in the course of an inquiry into a dispute under sub- section (1), the Sub- Divisional Officer is unable to satisfy himself as to which party is in possession or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupant, the Sub- Divisional Officer shall-

(a) in the first case, ascertain by summary inquiry who is the person best entitled to the property, and shall put such person in possession;

(b) in the second case, put the person so dispossessed in possession, and for that purpose use or cause to be used such force as may be necessary and shall then fix the boundary accordingly.

(3) Every proceeding under this section shall, as far as possible, be concluded by the Sub- Divisional Officer within three months from the date of the application.

(4) Any person aggrieved by the order of the Sub-Divisional Officer may prefer an appeal before the Commissioner within thirty days of the date of such order.[the order of the Commissioner shall, subject to the provisions of Section 210 be final]"

8. Section 24 (4) of U.P. Revenue Code, 2006 as quoted above specifically provided that order passed under Section 24 (4) of U.P. Revenue Code, 2006 shall subject to Section 210 be final

as such petitioner should challenge the impugned in revision under Section 210 of U.P. Revenue Code, 2006.

9. In view of the aforementioned facts and circumstances of the case, **writ petition is dismissed** on the ground of alternative remedy of filing revision. However, petitioner can file revision along with the prayer of condonation of delay under Section 5 of Limitation Act before the Revisional Court within a period of three weeks from today, which shall be registered and disposed of in accordance with law taking liberal view on delay condonation matter.

10. The office is directed to return the certified copy of the judgments to the learned counsel for the petitioner after retaining the photostat copies on record.

Order Date :- 1.11.2023

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