

Court No. - 49

Case :- WRIT - B No. - 3386 of 2023

Petitioner :- Umesh Chand And 4 Others

Respondent :- Board Of Revenue And 5 Others

Counsel for Petitioner :- Rohit Kumar Singh, Pravesh Kumar, Sandeep Kumar

Counsel for Respondent :- C.S.C., Pankaj Agarwal

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Sri Rohit Kumar Singh, learned counsel for the petitioners, Sri Awadhesh Kumar Patel, learned Standing Counsel for the respondents no. 1, 2, 3 and 6 and Sri Pankaj Agarwal, learned counsel for the respondents no. 4 and 5.

2. The present writ petition has been filed seeking the following reliefs:

"I. Issue a writ, order or direction in the nature of certiorari quashing the order dated 21.08.2023 passed by the respondent no.1/Board of Revenue, Meerut in Revision No. REV/878/2022, computerized Case No. ME202211000000878 (Asha Goyal Vs. Umesh Chand and others) in Section 210 of U.P. Revenue Code, 2006 (Annexure No.1 to the writ petition).

II. Issue a writ, order or direction in the nature of certiorari quashing the order dated 22.12.2021 passed by the respondent no.3/Tehsildar, Mawana, Meerut in Case No. RST/1628/17, Computerized Case No. T201711522031628 (Anurag Rana Vs. Trilok Chand) passed under Section 34/35 of U.P. Revenue Code, 2006 (Annexure No.2 to the writ petition).

III. Issue any other suitable writ, order or direction in the nature of mandamus directing to the concern parties to maintain status quo in the land in dispute, during the pendency of the present writ petition.

IV. Issue any other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

V. Award the cost of the petition in favour of the petitioners."

3. Admittedly, the present writ petition is arising out of the proceedings of mutation, which is summary in nature. There is catina of judgments on the subject that the writ petitions arising out of the mutation proceedings are not entertainable in writ jurisdiction of this Court under Article 226 of the Constitution of India.

4. The issue involved in the present writ petition has already been decided by this Court vide order dated 02.08.2023 passed in Writ B No. 2620 of 2023 (Amritansh Pandey Vs. State of U.P. and others). The relevant paragraph nos. 19, 20, 22, 24 and 26 are reproduced as under : -

"19. It is settled law that the revenue records do not confer title and even if the entries in the revenue record of rights carry value that by itself would not confer any title upon the person claiming on the basis of the same. The mutation proceedings being of a summary nature drawn on the basis of possession do not decide any question of title and the orders passed in such proceedings do not come in the way of a person in getting his rights adjudicated in a regular suit. Mutation in revenue records neither creates nor extinguishes title of the person nor it has any presumptive value on title. Such entries are relevant only for the purpose of collecting land revenue. In view thereof, this Court has consistently held that such writ petitions are not to be entertained in exercise of discretionary power conferred under Article 226 of the Constitution of India.

20. It would not be out of place to mention here that the power to issue prerogative writs under Article 226 is plenary in nature. It does not, in terms, impose any limitation or restraint on the exercise of the power to issue writs. It is the discretion of the Writ Court whether to entertain writ petition or not depending upon the facts and circumstances of each particular case. One of the self imposed restrictions on the exercise of the power under Article 226 of the Constitution that has evolved through judicial precedents is that the High Court should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under Article 226 of the Constitution has not pursued would not oust the jurisdiction of the High Court and render a writ petition 'not maintainable'.

22. The reluctance of this Court to interfere with the orders under challenge in the instant petition, is primarily that the same are the outcome of the mutation proceedings and it is a settled legal position that entry in the revenue records does not confer title to a person whose name appears in the records-of-rights, which is maintained for revenue purpose and an entry therein has reference only to possession. Further, the provision of Section 39 of the U.P. Revenue Code, 2006 makes it more clear that orders passed under the provisions relating to mutation of revenue records would not act as a bar against any person from establishing his rights in the property by way of suit for declaration. For ready reference the provision of Section 39 of the U.P. Revenue Code, 2006 is quoted below:-

"39-Certain orders of revenue officers not to debar a suit. -No order passed by a Revenue Inspector under section 33, or by a Tahsildar under sub-section (1) of section 35 or by a Sub-Divisional Officer under sub-section (3) of section 38 or by a Commissioner under sub-section (4) of section 38 shall debar any person from establishing his rights to the land by means of a suit under section 144."

24. *The fact of the present case does not attract the above mentioned exceptions as carved out by this Court under which this Court in exercise of its power under Article 226 of the Constitution may entertain a writ petition against the order passed in mutation proceedings that are admittedly summary in nature.*

26. *In view of the above, as no substantive rights of the parties have been decided or are likely to be decided in the mutation proceedings, no case for exercise of extra-ordinary writ jurisdiction under Article 226 of the Constitution of India is made out. Needless to say, it is always open to the petitioner to get his rights/title in respect of the land in question be crystallised by competent Civil Court."*

5. Learned Standing Counsel does not dispute the aforesaid legal position.

6. Accordingly, without interfering with the merits of the impugned orders passed by the Revenue Courts, this writ petition is disposed of with liberty to the parties to get their rights/title in respect of the land in question, if necessary, adjudicated or declared by the competent court of jurisdiction. The order passed in the mutation proceedings would abide by the decision of the competent court, if any, and the said court would not, in any manner, be influenced by any finding or observation made in the mutation orders or during mutation proceedings.

7. The writ petition is ***disposed of*** finally.

Order Date :- 6.12.2023

Prajapati