Court No. - 52

Case :- WRIT - C No. - 34695 of 2023

Petitioner :- Ram Jiyavan
Respondent :- State Of U.P. And 4 Others
Counsel for Petitioner :- Rohit Tiwari,Niraj Tiwari
Counsel for Respondent :- C.S.C.,Bhupendra Kumar Tripathi,Upendra Kumar Dubey

Hon'ble Saurabh Srivastava,J.

1. Heard Shri Niraj Tiwari, learned counsel for the petitioner and Shri Upendra Kumar Dubey, learned counsel for the respondent no.5 and Shri Vinod Kumar Rai, learned Standing counsel for respondent nos. 1 to 3 as well as Shri Sunil Singh, holding brief of Shri Bhupendra Kumar Tripathi, learned counsel for Gaon Sabha.

2. It is the case of the petitioner that proceeding under Section 30 of U.P. Revenue Code, 2006 has already been preferred for seeking correction of certain area which pertains to the Plot Nos.164, 165, 166 etc. situated at Village Mauja Khateerpur Bhaisa, Pargana Haveli, Tehsil Sadar, District- Jaunpur, and the same was properly adjudicated by way of demarcating the measuring area of each plot number in consonance with the revenue records by way of adjustment made from the excess area contained in another plot number vide order dated 10.08.2023.

3. Although, the joint application has been preferred by the petitioner and respondent no.5 under Section 30 of U.P. Revenue Code, 2006 but being aggrieved with the order dated 08.10.2023 respondent no.5 preferred a revision on 22.08.2023 which has been decided on 29.08.2023 without hearing and calling upon the petitioner as well as without perusal of the relevant records pertaining to the matter which has already been adjudicated under Section 30 of the U.P. Revenue Code, 2006, by the respondent no.2.

4. The instant petition has been preferred by the petitioner on several other grounds inter alia, precisely on the ground that at the time of passing the order which impugned present petition revisional authority in shape of respondent no.2 without examining the records and without hearing the version of the petitioner remitted back the matter for deciding the same. Although, there is

no clash of interest, since the joint application has already been preferred by the petitioner as well as respondent no.5 and as such in that situation it was mandatory for the respondent no.2 to have the version of the petitioner along with the examination of the records over which the adjudication has been made by respondent no.3.

5. Per contra, learned counsel appearing for respondent no.5 submitted that there is hardly any observation or determination drawn by respondent no.2, the matter has only been remitted back for deciding afresh to the respondent no.3 and as such there is not prejudice caused to the petitioner for filing the instant petition. Shri Vinod Kumar Rai, learned Standing counsel seconded the averment and arguments raised by respondent no.5 and supported the order dated 29.08.2023 passed by respondent no.2.

6. After having the arguments raised by learned counsel for the parties, the procedure of law as defined under the statutory provision contained in U.P. Revenue Code, 2006 demands the expeditious disposal of the controversies, if arising and covered under the provisions by the different revenue authorities, once the entire proceeding has been culminated into order dated 10.08.2023 passed under Section 30 of the U.P. Revenue Code, 2006 and once the same has been put under challenge in shape of revision preferred by respondent no.5 which was duty incumbent upon respondent no.2 to decide the same on merits and not to remit back the matter only after having ex parte version raised by respondent no.5. The action of the respondent no.2 was slightly unjustified by way of remitting back the matter to respondent no.3 for deciding afresh which is again compelling poor litigants to initiate the proceedings as original which has already been adjudicated by the respondent no.3 himself vide order dated 10.08.2023.

7. The power as a revisional authority lies with the respondent no.2 to declare the order passed by respondent no.3 in both the ways, but the decision has to be drawn and arrived only after due opportunity of hearing to all concerned.

8. In the instant matter it is crystal clear and admitted by learned counsel for respondent no.5, that at no point of time when the order which impugned the present petition has been passed the petitioner has ever been heard, but in the most contrary manner the same was decided by way of remitting back the matter to respondent no.3.

9. In view of the aforementioned facts and circumstances order

dated 29.08.2023 is hereby set aside. Matter is now remitted back to respondent no.2 since the adjudication whatsoever has been made was an ex parte and the same is hereby directed to decide on merits. After due opportunity of hearing provided to all concerns. The above mentioned exercise has to be complied with as expeditiously as possible preferably within a period of six months from the date of production of a certified copy of this order.

10. Accordingly, the instant petition stands **allowed.**

Order Date :- 24.11.2023
A Gautam

Digitally signed by :-
ADITYA GAUTAM
High Court of Judicature at Allahabad