

Court No. - 48

Case :- WRIT - B No. - 3566 of 2023

Petitioner :- Jagdish Ram And 2 Others

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

Counsel for Petitioner :- Anil Kumar Mishra

Counsel for Respondent :- C.S.C,Dharmendra Kumar
Tripathi,Manoranjan Shukla

Hon'ble Saurabh Shyam Shamsbery,J.

Heard Sri Anil Kumar Mishra, learned counsel for petitioners and Sri Dharmendra Kumar Tripathi, learned counsel for contesting respondent.

In the present case, the Appellate Authority by an order dated 27.4.2023 has set aside orders dated 02.12.1989, 03.10.2022 and 24.06.2003 passed by the Consolidation Officer with certain observations and matter was remitted back for Consolidation Officer for fresh consideration.

The aforesaid order was challenged by contesting respondents by way of filing a revision petition before the Deputy Director of Consolidation. The Deputy Director of Consolidation has observed that Appellate Authority has not given any finding in regard to the legal validity of compromise and has erroneously remitted the case to Consolidation Officer and further held that there was no illegality in the orders passed by the Consolidation Officer and, therefore, the revision petition was allowed.

Learned counsel for petitioners submits that in event, Revisional Authority came to conclusion that the Appellate Authority has erred in remitting matter to Consolidation Officer. The proper approach ought to have been to remit the case to the Settlement Officer Consolidation to decide on merit.

Learned counsel for contesting respondents submits that orders passed by Consolidation Officer were well reasoned and without returning any specific finding, the Settlement Officer Consolidation has erred in quashing those orders and further erred in remitting matter to the Consolidation Officer.

Heard counsel for parties and perused the record.

The Settlement Officer Consolidation has remitted case to the Consolidation Officer purportedly on ground that compromise in question has to be scrutinized afresh after inviting evidence from both parties. The Deputy Director of Consolidation has reached to conclusion that Appellate Authority has not given any finding in regard to legal validity of compromise and in one line, the Revisional Authority has confirmed orders passed by the Consolidation Officer. This approach is ex-facie erroneous.

There is no doubt that Deputy Director of Consolidation has power to decide the matter on its own, however, for that Revisional Authority has to give a specific findings after considering all the orders passed by lower Authority, however, as referred, such exercise was not undertaken by Revisional Authority.

Now the question that remains is whether matter be remitted to Deputy Director of Consolidation or to Settlement Officer Consolidation to decide it afresh.

I am of the considered opinion that in case, matter is remitted back to Deputy Director of Consolidation, both parties will lose benefit of an order passed by an Authority as well as in case matter is remitted to Appellate Authority, both parties will have benefit of a reasoned order. Therefore, it would be appropriate to set aside order dated 17.8.2023 as well as order dated 27.4.2023 and matter be remitted back to Settlement Officer Consolidation to decide afresh, on merit, after hearing the parties.

It is made clear that any observation which may have touched merit of case is only for purpose of adjudication of present writ petition. The Appellate Authority will have a liberty to decide the matter without being influenced by any observation made by this Court and aforesaid proceeding shall be concluded within a period of two months from today.

Counsel for parties on instruction have submitted that respective parties undertake that they will not take any adjournment before concerned Authority during hearing.

This writ petition is **disposed of** accordingly.

Order Date :- 17.10.2023

P. Pandey