

Court No. - 49

Case :- WRIT - B No. - 3560 of 2023

Petitioner :- Sri Nivas Rai And Another

Respondent :- State Of U.P. And 8 Others

Counsel for Petitioner :- Kumar Anish

Counsel for Respondent :- C.S.C.

Hon'ble Syed Qamar Hasan Rizvi,J.

Heard Shri Kumar Anish, learned counsel for the petitioners and Shri Awadhesh Kumar Patel, learned Standing Counsel for State-respondents No. 1, 2 and 3.

The present writ petition has been filed assailing the order dated 9.1.2023 passed by the learned Board of Revenue, Lucknow in Revision Rev/1804/2018/MAU (Computerized Case No. R20181551001804) (Shri Niwas Rai and others vs. Jaki Akhtar), under Section 210 of U.P. Revenue Code, 2006 and order dated 21.5.2018 passed by Sub Divisional Officer, Mau district Mau.

By means of the impugned order, the learned Board of Revenue has dismissed the revision filed by the petitioners mainly on the ground that the order dated 21.5.2018 passed by the Sub Divisional Officer, Sadar, district Mau in Computerized Case No. T201805510103300 (Shri Niwas Rai vs. Jaki Akhtar) under Section 38 of U.P. Revenue Code, 2006, is an interlocutory order.

The contention of learned counsel for the petitioners is that the order dated 21.5.2018 passed by the Sub Divisional Officer, Sadar-respondent No. 3 is an ex-parte order, as the same was passed without serving any notices to the petitioners.

From perusal of the available record, it appears that respondent No. 4 filed an application for stay of the order dated 16.4.2018 passed under Section 38 of the U.P. Revenue Code, 2006, on which the Sub Divisional Officer, Mau, District Mau (respondent no. 3) passed an order of status quo till further orders with a further direction, not to change the nature of the land.

Heard rival submissions of the learned counsels for the parties and perused the record.

Prima facie, there is no irregularity or illegality in the order passed by the learned Board of Revenue, and as such no interference is called for in the order passed by the learned Board of Revenue.

After arguing the matter at some length, learned counsel for the petitioners prays for liberty to be granted to the petitioners to move an application for the vacation of the interim order dated 21.5.2018 before the court of Sub Divisional Officer, Sadar, Mau (respondent no. 3) and prays that a direction be issued to the authority concerned to consider and decide the application for vacation of the order.

In view of the nature of order proposed to be passed, service of notice upon respondent Nos. 4 to 9 is dispensed with.

Taking into consideration the facts and circumstances of the case, this Court is of the view that no useful purpose would be served in keeping this writ petition pending.

Therefore, without advertng on merits of the case and with the consent of the parties, this Court deems it appropriate to finally dispose of the present writ petition with the liberty to the petitioners to move an application for the vacation of the interim order dated 21.5.2018 before the Sub Divisional Magistrate-respondent No. 3 in the proceedings bearing Computerized Case No. T201805510103300 (Shri Niwas Rai vs. Jaki Akhtar), under Section 38 of U.P. Revenue Code, 2006.

In case, such an application is moved, the same shall be decided by respondent No. 3 within a period of **three months** from the date a certified copy of the order along with the above-mentioned application is filed before him, strictly in accordance with law and after affording opportunity of hearing to the parties concerned.

With the aforesaid observation/direction, the writ petition is **disposed of**.

Order Date :- 27.10.2023

Sumaira