

Court No. - 51

Case :- WRIT - C No. - 35391 of 2023

Petitioner :- Heerawati

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Pawnesh Tiwari, Somesh Tiwari

Counsel for Respondent :- C.S.C., Bhupendra Kumar Tripathi

Hon'ble Chandra Kumar Rai, J.

1. Heard Counsel for the petitioner, Mr. Abhinav Ojha, learned Standing Counsel for the State-respondents and Mr. Bhupendra Kumar Tripathi, Counsel for respondent no.7, Gaon Sabha.

2. The instant petition has been filed for mandamus directing the respondent nos. 2 and 4 to execute the order dated 18.1.2021 passed by Additional Commissioner and the order dated 6.7.2017 passed under Section 24 of the U.P. Revenue Code, 2006 as well as direct the respondent no.2 to decide the application of the petitioner dated 20.3.2021, 18.7.2023 and 2.8.2023.

3. Counsel for the petitioner submitted that demarcation proceeding was concluded by the Sub Divisional Officer on 6.7.2017. He further submitted that revision filed against the order dated 6.7.2017 has been dismissed vide order dated 18.1.2021, as such, the order for demarcation passed on 6.7.2017 should be given affect on spot.

4. This Court has directed the learned Standing Counsel to obtain instruction in the matter.

5. Mr. Abhinav Ojha, learned Standing Counsel for the State-respondents has placed the instruction dated 3.11.2023 before the Court which is taken on record.

6. Mr. Abhinav Ojha, learned Standing Counsel for the State-respondents on the basis of the instruction submitted that against the order dated 6.7.2017, a restoration application dated 17.7.2017 has been filed which is still pending before the Sub Divisional Officer. He further submitted that revision

filed by Ram Nayan and Ram Pyare sons of Guru Dayal against the order dated 6.7.2017 was dismissed on the ground that restoration application dated 17.7.2017 is pending before the Sub Divisional Officer. He further submitted that last date fixed in the restoration proceeding was 30.11.2023, as such, the same shall be concluded in accordance with law. He submitted that so far as implementation of the order dated 6.7.2017 is concerned, the revenue team was constituted and the inspection was made on 1.11.2023 in which it is found that pillars have already been fixed on spot in pursuance of the order of demarcation passed on 6.7.2017. He further placed the spot memo prepared by the revenue team constituted for the purpose.

7. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

8. There is no dispute about the fact that restoration application dated 17.7.2017 filed against the order dated 6.7.2017 is pending before the Sub Divisional Officer.

9. In view of the pendency of the restoration proceeding as well as the facts mentioned in the instruction dated 3.11.2023, no interference is required in the matter. Writ petition is **disposed of** with direction to Sub Divisional Officer to decide the restoration application dated 17.7.2017 filed against the order dated 6.7.2017 in accordance with law after affording opportunity of hearing to the parties expeditiously preferably within period of **two months** from the date of production of certified copy of this order. It is made clear that this Court has not expressed any opinion on the merit of the pending restoration application.

Order Date :- 8.12.2023

Vandana Y.