

Court No. - 49

Case :- WRIT - B No. - 3514 of 2023

Petitioner :- Baijanti Devi And Another

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Ali Hasan, Manish Kumar Singh

Counsel for Respondent :- C.S.C., Avinash Chandra Srivastava

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Sri Ali Hasan, learned counsel for the petitioners, Sri Awadhesh Kumar Patel, learned Standing Counsel representing the respondent nos. 1 to 4, Smt. Vibha Srivastava, Advocate holding brief of Sri Avinash Chandra Srivastava, learned counsel appearing on behalf of the respondent no. 5 / Gaon Sabha and perused the record.

2. Learned counsel for the petitioners prayed that he may be permitted to amend the writ petition by making necessary amendments in the prayer clause of the writ petition.

3. The petitioner is permitted to incorporate the necessary amendments in the prayer clause of the writ petition during course of the day.

4. The present writ petition has been filed seeking following relief:

"i. A writ order or direction in the nature of mandamus, directing to the respondent authorities that the petitioners may not be dispossessed from Khata No. 00644, Gata No. 475 area about 0.4030 hectare situated at Village Chandsora, Tehsil Kheragarh, District Agra in pursuant to the effect and operation of the order dated 13.1.2021 passed by the respondent no. 3.

ii. Writ order or direction in the nature of mandamus, directing to the respondent no. 2 not to interfere in the peaceful possession of the petitioners over the Khata No. 00644, Gata No. 475 area about 0.4030 hectare situated at Village Chandsora, Tehsil Kheragarh, District Agra, during the pendency of the Case No. REV/100/2022 (Dinesh Chandra Vs. Smt. Baijanti & others) under Section 210 of U.P. Revenue Code, 2006 pending in the court of Board of Revenue, Circuit Court No. 2, Agra.

iii. Any other, order or direction as the Hon'ble Court may deem fit and proper to secure the ends of justice.

iv. Award the cost of the petition in favour of the petitioner.

v. A writ or order in the nature of mandamus commanding the respondent no. 2 to decide the Case No. REV/100/2022 (Dinesh Chandra Vs. Smt. Baijanti & others), under Section 210 of U.P. Revenue Code, 2006 within some stipulated period as fixed by this Hon'ble Court."

5. After arguing the case at some length, learned counsel for the petitioner submits that he is not pressing the prayer nos. (i) & (ii) at this stage. He submits that he is pressing only prayer no. 5 of the writ petition.

6. The contention of the learned counsel for the petitioners is that the revision pending before the learned Board of Revenue is not maintainable against the remand order.

7. Sub Rule (4) of Rule 183 of U.P. Revenue Code Rules, 2016 provides as under:

"The appellate or the revisional Court shall, endeavour to finally decide the appeal or revision, as the case may be, within a period of six months from the date of filing the appeal or revision and if the appeal or revision is not decided within the aforesaid period, the reason for the same shall be recorded."

8. There is a clear legislative mandate that if proceedings are not concluded within stipulated period of time as provided under the aforesaid provision, reasons for the same shall be recorded.

9. Learned counsel appearing for the State has placed before the Court the instruction dated 11.11.2023 received by him. The same is taken on record.

10. Learned Standing Counsel submits that he has no objection to the extent that a direction is issued by this Court for expeditious disposal of the case within stipulated period as to be fixed by this Court.

11. In view of the nature of the proposed order to be passed, the service of notice upon the respondent no. 6 is dispensed with.

12. 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.

13. Accordingly, 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 a direction to learned Board of Revenue, U.P. Circuit Court-2, Agra (respondent No. 2), to decide the Case No. REV/100/2022 (Dinesh Chandra Vs. Smt. Baijanti & others), under Section 210 of U.P. Revenue Code, 2006, strictly in accordance with law, by a reasoned and speaking order on merit after affording opportunity of hearing to the parties concerned, expeditiously and preferably within a period of **six months** from the date of receipt of a certified copy of this order, unless there is any legal impediment.

14. It is open for the petitioners to raise all objections including the objections regarding maintainability of the revision and that shall be considered by the learned Board of Revenue (respondent no. 2) in accordance with law.

15. With the aforesaid direction, the present writ petition is **disposed of**.

Order Date :- 23.11.2023/Arif