

Court No. - 38

Case :- WRIT - C No. - 35585 of 2023

Petitioner :- Shiva Lakhan And 2 Others

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Mahabir Yadav, Vijay Kumar Kushwaha

Counsel for Respondent :- C.S.C., Hari Narayan Singh

Hon'ble Ashutosh Srivastava, J.

1. Heard Shri Mahabir Yadav, learned counsel for the petitioners and Shri Sanjay Kumar Srivastava, learned Brief Holder for the State respondent. Shri Hari Narayan Singh, learned counsel has appeared for the Land Management Committee-respondent No. 5.

2. The challenge in this writ petition is to the order dated 23.2.2023 passed by the Additional Commissioner, Kanpur Division, Kanpur in Revision No. 865 of 2022 (Shiv Lakhan and others versus Gram Sabha and others) whereby the order dated 7.11.2022 deciding the revision has been recalled and the revision has been restored to its original number. The order dated 23.2.2023 has been passed on the premise that no arguments were advanced by the learned State Counsel when the revision was being finally heard.

3. Learned counsel for the petitioners has vehemently argued that the order dated 7.11.2022 was passed after hearing all the parties and was an order on merits and under the impugned order dated 23.2.2023 the same has been recalled without any notice or opportunity to the petitioners in whose favour the revision had been allowed.

4. Learned State Counsel submits that the impugned order may not be interfered inasmuch as it only restores the revision to the original number and the revision would now be decided on merits after hearing the learned counsel for the State.

5. This Court has heard the respective counsels and considered their respective submissions.

6. From the perusal of the impugned order dated 23.2.2023, it is apparent that the order has been recalled merely on the pretext that the State Counsel was not heard and the order was passed against the State.

7. Without going into the controversy as to whether the proceedings could have been restored merely on the ground that the learned State Counsel was not heard, this Court deems it appropriate to dispose of the writ petition by requiring the respondent No. 2, who is now seized with the revision, to pass appropriate orders after hearing all the parties concerned including learned counsel for the State and decide the revision itself within a period of two months from the date of receipt of certified copy of this order, strictly in accordance with law.

8. Till the decision in the revision on merits as directed by this Court, no coercive action shall be taken against the petitioners.

9. With the aforesaid observation, this writ petition stands ***disposed of***.

Order Date :- 13.10.2023

Ravi Prakash

(Ashutosh Srivastava, J.)