

Court No. - 52

Case :- WRIT - C No. - 37770 of 2023

Petitioner :- Suman Singh

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

Counsel for Petitioner :- Saroj Kumar Pandey

Counsel for Respondent :- C.S.C.,Rajesh Kumar

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Saroj Kumar Pandey, learned counsel for petitioner and Sri Prabhakar Tripathi, learned Standing counsel appearing for respondent no. 1 to 5.

2. Although caveat has been preferred on behalf of respondent no. 6 to 10 but even in the revised call none appeared on behalf of respondent no. 6 to 10, whereas name of Sri Rajesh Kumar , learned counsel for respondent no. 6 to 10 is mentioned in the cause list.

3. Present petition has been filed seeking following reliefs:

"(i) Issue a writ, order or direction in the nature of certiorari calling for records and quashing the impugned judgment and order dated 25.08.2023 passed by Additional Commissioner, Administration, Varansi Region, Varanasi, Tehsil-Sadar in suit no. 00191 of 2019 (Computerized suit no. C201914000000191 (Ajeet Kumar and others vs. Suman Singh and others).

(ii) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent no. 6 to 10 not to interfere in measurement and demarcation of land no. 654 area 0.304 hectare i.e. 304 Are situated at Village-Rustampur, Pargana-Shivpur, Tehsil-Sadar, District-Varanasi.

(iii) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent no. 6 to 10 not to create any third party interest in any manner in arazi no. 654 area 0.304 hectare i.e. 304 Are situated at Village- Rustampur, Pargana-Shivpur, Tehsil-Sadar, District-Varanasi."

4. Learned counsel for the petitioner raised his argument for challenging the order which impugned the present petition passed by respondent no. 5 in appeal no. 191 of 2019 vide order dated 25.8.2023, through which the matter has been remanded back to respondent no. 4 for deciding afresh on merits after affording due opportunity of hearing to all concerned.

5. On precise query made before learned counsel for the petitioner that how the rights are going to be adversely affected, if the matter has been remanded to respondent no. 4 and the same has to be decided again on the basis of merit as well as after affording opportunity of hearing by way of leading their evidences up to

their satisfaction once again. In reply, learned counsel for the petitioner submitted that again the petitioner has to travel from the same proceedings which has already been adjudicated by the respondent no. 4 himself vide order dated 12.03.2015 wherein the respondent no. 6 to 10 has already put their appearance and the same has already been decided by way of considering their objection whatsoever they have submitted at that time and the respondent no. 6 to 10 were well satisfied with the same.

6. Per contra, learned Standing counsel vehemently opposed the prayer as made in the petition and rebutted the stand taken up by learned counsel for the petitioner and supported the order dated 25.08.2023 on the ground that nothing adverse has been adjudicated by the respondent no. 5 against the petitioner and as such there is hardly any infirmity or illegality involved in the order which impugned the present petition and as such the petitioner is rightfully entitled to put his appearance before respondent no. 4 for restoring his rights and claim over the property in dispute.

7. After having the rival submissions extended by learned counsel for the parties, one aspect is crystal clear that there is hardly any adjudication made by respondent no. 5 against the petitioner and as such no prejudice has been caused only to the extent that the petitioner has to again put his appearance in the same proceedings which has already been adjudicated way back in the year 2015 itself but at the same time the procedure defined under the law prevail and provide the opportunity to seek justice to all concerned whereupon the matter has already been remanded back by respondent no. 5 to the respondent no. 4 for deciding as fresh on its merit and after adopting the principles of natural justice.

8. Considering the longevity of the matter which enlarged the pendency for re-adjudicating the same thing which has already been decided in favour of the petitioner, respondent no. 4 is hereby directed only to the extent for expediting the matter which has been remanded back by respondent no. 5 as expeditiously as possible preferably within a period of nine months from the date of production of certified copy of this order, otherwise the rest of the direction passed by respondent no. 5 in favour of respondent no. 4 shall remain undisturbed for expedite adjudication of the proceedings under Section 41 of L.R. Act.

9. Writ petition stands ***disposed of*** accordingly.

Order Date :- 2.11.2023

Shaswat