

Court No. - 48

Case :- WRIT - B No. - 3691 of 2023

Petitioner :- Ram Swaroop Singh And 3 Others

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Ramakant Tiwari

Counsel for Respondent :- C.S.C.,Aakansha Singh
Chandraul,Achal Singh,Ramesh Rai

Hon'ble Saurabh Shyam Shamschery,J.

1. Heard Sri Ramakant Tiwari, learned counsel for the petitioners and Sri Ramesh Rai on behalf of contesting respondents.

2. In consolidation proceedings on basis of a compromise, allotment of shares between parties were determined and thereafter consequential and corresponding proceedings were concluded. However, at a very belated stage, contesting respondents filed an appeal before the Settlement Officer of Consolidation which was dismissed on ground of delay of about 13 years. However, a revision petition filed by contesting respondents was allowed by impugned order dated 25.7.2023 and matter was remitted to Settlement Officer of Consolidation to decide the appeal afresh.

3. Learned counsel for petitioners submits that on basis of compromise, proceedings were concluded and respective shares were determined and all consequential proceedings under consolidation was concluded, therefore, at belated stage to dispute the compromise, would not only cause great prejudice to them, but it would be illegal also. The Settlement Officer of Consolidation has considered and legally rejected the Appeal on ground of laches, but Deputy Director of Consolidation has erroneously allowed the Revision.

4. The Appellate Authority has legally considered and rejected a belated appeal on ground of laches and interference therein by the Revisional Authority was erroneous.

5. Learned counsel for contesting respondents submits that matter has now been remitted to Settlement Officer of Consolidation which has to be decided in accordance with law and all the contentions raised before this Court could be raised before the Appellate Authority and at this stage no prejudice is caused to the petitioners.

6. Heard learned counsel for parties and carefully perused the impugned order.

7. In the impugned order, no finding has been returned in respect of condonation of delay and while remitting the matter to Settlement Officer of Consolidation it was directed that the said authority will consider the order dated 4.8.2004 passed by Assistant Consolidation Officer, Mau and the report dated 30.10.2004.

8. Learned counsel for petitioners has placed reliance on a judgment passed by co-ordinate Bench of this Court in the case of ***Bharat Bhusan & Ors. Vs. Deputy Director of Consolidation, Jaunpur & Ors, 2005 (98) RD 3***, that once the consolidation proceedings were finalized and the parties are put in possession, it would not open to the Consolidation Authorities to re-open the same again and again.

9. There is no doubt that in any proceedings, a finality has to be respected. However, since challenge at behest of contesting respondents is to a disputed compromise, which was the basis of order passed in earlier proceedings, therefore, it could be a ground to reopen the matter.

10. So far as delay is concerned, that has to be considered in view of the judgment passed by Supreme Court in the case of ***Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Ors, (2013) 12 SCC 649***, specifically when the delay is extraordinary.

11. I have carefully perused the orders passed by Appellate Authority as well as Revisional Authority.

12. Revisional Authority while remitting the case to Appellate Authority has not considered the issue of condonation of delay and passed the order on merit whereas the appeal was rejected only on ground of laches and therefore, the Revisional Authority has erroneously entered into merits of the case and remitted the case to Settlement Officer of Consolidation without even condoning the delay in filing the appeal without any direction to consider the application for condonation of delay afresh, therefore, illegality has been committed by the Revisional Authority, therefore impugned order cannot be sustained.

13. Accordingly, impugned order dated 25.7.2023 is set-aside and the matter is remitted to Deputy Director of Consolidation, Chitrakoot to decide the revision petition, only to extent of issue of limitation since the Appellate Authority has rejected the

appeal only on ground of limitation.

14. With the aforesaid direction, this writ petition is **disposed of**.

Order Date :- 2.11.2023

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