

Court No. - 52

Case :- WRIT - C No. - 38004 of 2023

Petitioner :- Suresh Chandra And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Suresh Chandra Verma, Devesh Kumar Verma

Counsel for Respondent :- CSC, Hari Narayan Singh

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Devesh Kumar Verma, learned counsel for petitioners and Sri Rajesh Kumar Tiwari, learned Additional Chief Standing Counsel for the State respondent nos.1 to 3 as well as Sri Hari Narayan Singh, learned counsel for Gram Sabha.

2. The present petitioner has been filed for seeking a direction in the nature of mandamus to be issued in favour of Tehsildar Auraiya, District Auraiya to record the names of petitioners against plot nos.2411 and 2413, situated at Village Sehud, Tehsil Auraiya, District Auraiya.

3. It is the case of petitioner that initially lease has been extended in their favour way back in the year 1983, whereupon names of petitioners have been entered in the revenue records, entries available in the record of rights are appended along with the petition as Annexure-2 available at page no.21.

4. In pursuance of the notification under Section 4 of U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as '1953 Act'), operation of consolidation initiated in the same village i.e. Village Sehud, Tehsil Auraiya, District the then Etawah now Auraiya. Learned counsel for petitioners submitted that on some report submitted that on some report submitted by Assistant Settlement Officer, names of petitioners have been expunged from revenue records vide order dated 16.04.2004, being aggrieved with the same, petitioners preferred restoration application but unfortunately the same was dismissed in default vide order dated 29.10.2007, thereafter petitioners preferred an appeal before Settlement Officer, Consolidation under Section 11(1) of 1953 Act on dated 25.05.2010 along with application for condonation of delay.

5. During pendency of the said appeal, notification under Section 6 of 1953 Act was notified by respondent no.1 which culminated into denotification of operation of consolidation and the appeal preferred by petitioners has been abated vide order dated 19.09.2012 passed by Settlement Officer, Consolidation, Etawah. After abatement of appeal along with entire proceedings initiated before the Consolidation Officer, petitioners requested before revenue authorities, specifically before respondent no.2 for restoration of entries available in the revenue records before consolidation operation but no heed has been paid over the same.

6. Per contra, learned Additional Chief Standing Counsel vehemently opposed the prayer as made in the petition and rebutted the stand taken up by learned counsel for petitioners on the basis of instructions received. The main grounds for opposing the prayer are as under:-

"(i) there is no specific application preferred by petitioners for restoration of the entries in the revenue records before competent revenue authorities;

(ii) after institution of the present petition, proper inquiry has been made through which it has been found that the entries available in favour of petitioners were forged and fictitious and as such, there is hardly any occasion available before petitioners for restoration of the same."

7. Learned counsel for Gram Sabha has nothing to say about controversy between the petitioners and revenue authorities and he is confined to protect the interest of Gram Sabha whatsoever is available in the revenue records.

8. After hearing the arguments as raised by learned counsel for parties, the facts narrated in the petition and arguments of learned counsel for petitioners have not been disputed by learned Additional Chief Standing Counsel with regard to notification issued by respondent no.1 in shape of Sections 4 and 6 of 1953 Act along with the remedy availed by petitioners from time to time during consolidation operation.

9. The entries available in the revenue records before consolidation operation were against the names of petitioners in respect of plot nos.2411 and 2413, situated at Village Sehud, Tehsil Auraiya, District Auraiya. During consolidation operation, entries available in favour of petitioners were expunged over the report submitted by Assistant Settlement Officer and the same has been challenged

before the competent authority by petitioners, after notification of Section 6 of 1953 Act, entire proceedings initiated in pursuance of Section 4, has been abated and as such, the entries available in the revenue records before consolidation operation has to be maintained by respondent nos.2 and 3 and the same has been prayed by petitioners.

10. The stand taken up by learned Additional Chief Standing Counsel that upon some inquiry, it has been found that entries available before consolidation were forged but at the same time on precise query, it has been fairly submitted that the same has not been expunged by any revenue authority but the same has been initiated over the report submitted by Assistant Settlement Officer during operation of consolidation. Upon submission made by learned Additional Chief Standing Counsel, it is crystal clear that no opportunity of hearing has ever been afforded to petitioners before arriving over conclusion by revenue authorities with regard to determination of the entries available in favour of petitioners as forged and fictitious.

11. In view of the aforesaid facts and circumstances, respondent no.3 is hereby directed to restore the entry available in the revenue records pertaining to petitioners before operation of consolidation and thereafter if any inquiry whatsoever is made by revenue authorities with regard to determining the entries against the names of petitioners, proper procedure may be adopted for expunging the same after adopting principles of natural justice by way of affording proper opportunity of hearing to all concerned.

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

Order Date :- 29.11.2023

Vivek Kr.