Court No. - 52

Case :- WRIT - C No. - 37780 of 2023

Petitioner :- Maharaj Kumari Vishnupriya And 2 Others
Respondent :- State Of U.P. And 4 Others
Counsel for Petitioner :- Ritvik Upadhya
Counsel for Respondent :- C.S.C., Sanjay Singh, Saurabh Raj Srivastava

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Vinod Kumar Upadhya, learned Senior Advocate, assisted by Sri Ritvik Upadhya, learned counsel for the petitioners; Sri G.P. Singh, learned Senior Advocate, assisted by Sri Saurabh Raj Srivastava, learned counsel for respondent no. 4 and Sri Rajesh Kumar Tiwari, learned Additional Chief Standing Counsel appearing for respondents no. 1, 2, 3 and 5.

2. The instant petition has been preferred for challenging the order dated 30.09.2023 passed by respondent no. 2 in Appeal/Case 1429 of 2023, Computerized Case No. D202314700001429 (Maharaj Kumari Vishnupriya Vs. Dr. Anant Narain Singh) under Section 207 of U.P. Revenue Code, 2006, which has been filed against the order dated 16.03.2022 passed by Naib Tehsildar, City, Division Varanasi, District Varanasi, Tehsil Sadar, in Case No. RST/03144 of 2021, Computerized Case No. T202114700103144 (Maharaj Kumari Vishnupriya Vs. Dr. Anant Narain Singh).

3. Learned Senior Counsel appearing for respondent no. 4 raised a preliminary objection that order impugned is revisable before Board of Revenue and, as such, petitioners are having alternative remedy but the same has not been exhausted and the order passed by respondent no. 2 in appeal has directly been challenged before this Court under Article 226 of the Constitution of India and, as such, the same is not maintainable.

4. In response to the preliminary objection raised by learned Senior Counsel appearing for respondent no. 4, Sri Vinod Kumar Upadhya, learned Senior Counsel, appearing for petitioners, showed his anxiety that there will be no consideration of the interim prayer if made by the petitioners along with the revision, as indicated by learned Senior Counsel appearing for respondent no. 4, during the pendency of appeal and in spite of the interim

order, respondent no. 4 has alienated and transferred major portion of land in question.

5. In the most fair and noble assistance rendered by Sri G.P. Singh, learned Senior Advocate, appearing for respondent no. 4, he extended the undertaking that in case petitioners prefer revision along with specific application seeking interim relief, by that time no further third party right shall be created by the respondent no. 4 so that the procedure defined under statutory provisions contained in U.P. Revenue Code, 2006 may be complied with. The gesture shown by Sri G.P. Singh, learned Senior Advocate is highly appreciable, which demonstrate the respect to the procedure and law.

6. On the request made by learned Senior Advocate appearing for petitioners, petitioners are hereby permitted to withdrawn this writ petition with liberty to prefer revision before Board of Revenue along with specific application for interim relief within a period of one month from today.

7. If the above mentioned revision be preferred by the petitioners along with stay application within a month, stay application be decided by the Board of Revenue within 15 days from the date of filing as well as final adjudication over the revision shall be made within nine months thereafter by way of giving opportunity of hearing to all concerned.

8. With the aforesaid directions, the writ petition stands dismissed as withdrawn.

Order Date :- 3.11.2023
P.Sri.

Digitally signed by :-
PUNEET SRIVASTAVA
High Court of Judicature at Allahabad