

Court No. - 52

Case :- WRIT - C No. - 38490 of 2023

Petitioner :- Munni Devi And 2 Others

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

Counsel for Petitioner :- Vishal Khandelwal

Counsel for Respondent :- CSC, Avinash Chandra Srivastava

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Vishal Khandelwal, learned counsel for petitioners and Sri Shashikant Kushwaha, learned Standing Counsel for the State-respondent no.1 to 3 as well as Sri Avinash Chandra Srivastava, learned counsel for Gram Sabha.

2. The present petition has been preferred for seeking quashing of the impugned order dated 19.09.2023 passed by respondent no.2 i.e. Additional Commissioner (Judicial) Agra Division, Agra in Appeal No.1231 of 2023 so far as it relates to the rejection of stay application dated 05.08.2023 preferred by petitioners.

3. It is the case of petitioners that an allotment of lease duly approved in favour of petitioners way back in the year 1988, has been disturbed over the report submitted by concerned Lekhpal through concerned Tehsildar and the same has been cancelled vide order dated 10.07.2023, whereas names of petitioners have already been entered in the revenue records and they were still in possession of the same.

4. Being aggrieved with the order dated 10.07.2023 passed by respondent no.3, petitioners preferred an appeal under Section 38(4) of U.P. Revenue Code, 2006 along with separate application for seeking interim relief only for issuing direction for maintaining status quo, at the time of admission of the appeal, the same has

been admitted but interim application has been rejected vide order dated 19.09.2023 which impugned the present petition.

5. Learned counsel for petitioners raised his arguments on several other grounds *inter-alia* that no specific reason has been recorded by respondent no.2 while passing the order dated 19.09.2023 which adversely affects the rights of petitioners which is prevailing since 1988 and the same cannot be disturbed only on the report which has been *suo moto* sought by concerned Tehsildar through Lekhpla which has been pleaded through the appeal preferred by petitioners.

6. Learned counsel for respondent nos.1 to 4 vehemently opposed the prayer as made in the instant petition and rebutted the stand taken up by learned counsel for petitioners but failed to satisfy the Court over reasoning recorded by respondent no.2 while passing the order dated 19.09.2023 that there are no sufficient ground available for acceding the prayer as made through the application for seeking interim relief.

7. While perusal of the records which has been appended along with the petition, it is crystal clear that the names of petitioner have already been entered in the revenue records in pursuance of the order dated 23.01.1988, what more grounds are required that has to be elaborately mentioned by respondent no.2 while rejecting the prayer as made by petitioners and while passing the order dated 19.09.2023.

8. In view of the aforesaid facts and circumstances, order dated 19.09.2023 is set aside sofar as it relates to rejection of application for seeking interim relief, matter is hereby remitted back to respondent no.2 for reconsideration of the interim prayer made by petitioners through specific application within a period of one

month from the date of production of a certified copy of this order before him.

9. However, it is made clear that till the disposal of the interim prayer made by petitioners, all the parties are directed to maintain status quo.

10. Writ petition stands **allowed** accordingly.

Order Date :- 20.11.2023

Vivek Kr.