

Court No. - 47

Case :- WRIT - C No. - 37889 of 2023

Petitioner :- Om Prakash Tantia

Respondent :- Record Officer / Additional District Magistrate And 6 Others

Counsel for Petitioner :- Hridesh Batra, Syed Fahim Ahmed

Counsel for Respondent :- C.S.C.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Syed Fahim Ahmed, learned counsel for the petitioner and Sri Surendra Bahadur Singh, learned Standing Counsel for the State.

2. Present writ petition has been filed seeking following relief:

"i. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 9.8.2023 passed by the respondent no.1 (Annexure No.16 to the writ petition).

ii. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 23.12.2020 passed by the respondent no.2 (Annexure No.6 to the writ petition).

iii. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 14.5.2009 passed by the respondent no.3 (Annexure No.3 to the writ petition).

iv. Issue a writ, order or direction in the nature of mandamus directing the respondents not to dispossess the petitioner from Khata No.2034, Gata No.3321 area 0-11-0, Gata No.3323-Ka area 6-5-0, Gata No.3324- Ka area 2-18-0, Gata No.3372-Kha area 6-5- 0 situated at Mauja Kuldumari, Pargana Singrauli, Tehsil Duddhi, District Sonbhadra and further direct the parties to maintain status quo as on date over the land in question."

3. Contention of learned counsel for the petitioner is while recording the name of Banshdhari as the son of the Deep Narayan, Naib Tehsildar committed illegality as present petitioner is son of Deep Narayan and Banshdhari belong to some different village. Against the order of Naib Tehsildar, the petitioner also preferred an appeal and a revision which were also rejected without considering the evidence available on record. It is further contended by learned counsel for the petitioner that it is the proceeding under Section 54 of the U.P. Land Revenue Code, 2006 and not the mutation proceeding, therefore, Survey Naib Tehsildar has no jurisdiction to record the name of Banshdhari as legal heir/successor of Deep Narayan.

4. As the appellate court as well as revisional court after considering the submission of the parties and after taking into consideration the evidence available on record, rejected the contention of the petitioner, this court from the perusal of the record finds that present proceeding is a mutation proceeding on the basis of succession on the death of Deep Narayan. Whether the present

petitioner was a son of Deep Narayan or Banshdhari was actually the son of Deep Narayan, this question cannot be decided in the mutation proceeding. Such type of disputed question of fact can be decided by the civil court or in the appropriate proceeding under Revenue Code for declaration of right.

5. In view of the above, this writ petition is **dismissed**.

Order Date :- 28.11.2023

Nitika Sri.