

Court No. - 48

Case :- WRIT - B No. - 3825 of 2023

Petitioner :- Gomti And Another

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

Counsel for Petitioner :- Vineet Kumar Singh

Counsel for Respondent :- C.S.C.,Vikas Mani Srivastava

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri Vineet Kumar Singh, learned counsel for the petitioners and Sri Vikas Mani Srivastava, learned counsel for contesting respondents.

2. It is not much in dispute that the Deputy Director of Consolidation has passed an order dated 13.8.1985 on basis of an alleged compromise. Aforesaid order was belatedly challenged by contesting respondents by way of filing a restoration application on 20.12.2002 which is still pending.

3. Meanwhile, on an application under Rule 109 of Uttar Pradesh Consolidation of Holdings Rules, 1954 of the petitioners for Amaldaramad of above referred order dated 13.8.1985 a consequential order was passed on 27.11.2003 by Consolidation Officer. Appeal thereof at the behest of contesting respondents was rejected on 27.11.2003. However, Revisional Authority has set-aside the orders dated 18.7.2003 and 27.11.2003 making an observation on merits of case.

4. Learned counsel for the petitioners submits that substantive order dated 13.8.1985 is still in force though its challenge at belated stage is still pending, therefore, it was not legally permissible for the Deputy Director of Consolidation to set-side the consequential orders passed thereof and the legal consequence of the outcome of restoration application if any would definitely follow.

5. Learned counsel for the contesting respondents submits that the order dated 13.8.1985 was a creation of fraud which has been noted in the impugned order. However, he fairly submits that outcome of restoration application filed by contesting respondents would have its legal consequence which may include to declare the orders dated 27.11.2003 and 27.11.2004 to be non-est.

6. In the aforesaid circumstances since the substantive order dated 13.8.1985 is still in existence and there is no dispute that consequence of restoration application filed thereof against it would have its legal consequence, therefore, at this stage interference by the Deputy Director of Consolidation on consequential order and a comment on a merit of case was legally erroneous.

7. Accordingly, impugned order 19.8.2023 is set-aside. However, it is made clear that outcome of restoration application so filed by contesting respondents will have its legal consequence.

8. It is made clear that this Court has not entered into the veracity of the order dated 13.8.1985 which may be considered by the competent authority where the restoration application is pending if situation so arises.

9. With the aforesaid observation, this writ petition is disposed of.

Order Date :- 17.11.2023

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