

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 8349 of 2023

Applicant :- Smt. Durgawati

Opposite Party :- Virag Pandey And 3 Others

Counsel for Applicant :- Abhai Kumar Singh, Awadhesh Kumar Singh, Babban Singh

Hon'ble Rohit Ranjan Agarwal, J.

Heard Sri A.K. Singh, learned counsel for the applicant.

A transfer application was moved before the Board of Revenue for transferring the file from the Court of Tehsildar, Pandit Deen Dayal Upadhyay Nagar, Chandauli to the Court of Tehsildar, Chakiya, District Chandauli. The said application was allowed on 15.11.2022.

Aggrieved by the order passed by the Board of Revenue, the applicant had preferred Writ-B No.3633 of 2022 and on 19.12.2022, this Court had passed the following interim order:-

"Heard Sri Sudarshan Singh, learned counsel for the petitioners and learned Standing Counsel for the State-respondents.

Learned counsel for the petitioners submitted that the transfer application filed by the contesting respondent no.2 before the Board of Revenue has been allowed without notice and opportunity of hearing to the petitioners by which the mutation case pending before the Tahsildar has been transferred.

Matter requires consideration as to whether the transfer application can be allowed without hearing the petitioners who are necessary party in the transfer application and even was impleaded in the proceeding.

Issue notice to respondent no.2 returnable at an early date.

Steps be taken within one week.

All the respondents shall file counter affidavit within six weeks.

Petitioners will file rejoinder affidavit within two weeks thereafter.

List this case on 1.3.2023.

Until further orders of this Court, the effect and operation of the order dated 15.11.2022 passed by the Board of Revenue shall remain stayed."

From the perusal of the aforesaid order, it is clear that the Court had only stayed the order passed by the Board of Revenue transferring the file from the Court of one Tehsildar to the Court of another Tehsildar. The certified copy of the said order was placed before the Court of Tehsildar at Chakiya, District Chandauli on 22.12.2022 and the file was remitted back to the Court of Tehsildar, Pandit Deen Dayal Nagar, Chandauli.

Pursuant to the transfer of the file, the Tehsildar, Pandit Deen Dayal Upadhyay Nagar, Chandauli had decided the proceedings under Section 35 of the U.P. Revenue Code, 2006 and passed the order on 30.12.2022.

It is contended by learned counsel for the applicant that once the matter regarding the transfer application is subjudice before the Court, the officer, concerned should not have decided the proceedings pending before him as a transfer application had already been moved by the applicant which was allowed by the Court of Tehsildar.

After hearing learned counsel for the applicant, I find that the interim order granted by the writ Court was only to the extent to stay the order of the Board of Revenue transferring the file from the Court of one Tehsildar to the Court of other Tehsildar. Once, the transfer order was stayed and the file was again sent to the Court of Tehsildar, Pandit Deen Dayal Upadhyay Nagar, Chandauli, he proceeded with the matter and decided the same. There was no interim order operating as to the proceedings which were pending under Section 35 of the U.P. Revenue Code, 2006.

As the proceedings under Section 35 of the U.P. Revenue Code, 2006 are summary in nature, this Court finds that no case for contempt is made out, and if the applicant is aggrieved by the order passed under Section 35 of the Code, 2006, he has a remedy of filing an appeal before the appropriate forum, if so advised.

Accordingly, the present contempt application is misconceived and the same stands dismissed.

Order Date :- 20.11.2023
SK Goswami