

Court No. - 48

Case :- WRIT - B No. - 3976 of 2023

Petitioner :- Sneh Lata Singh

Respondent :- State Of U.P. And 19 Others

Counsel for Petitioner :- Shilpa Singh Sikarwar

Counsel for Respondent :- CSC, Chandra Kant Tripathi

Hon'ble Saurabh Shyam Shamsbery, J.

1. Heard Sri O.P. Singh, Advocate holding brief of Ms. Shilpa Singh Sikarwar, learned counsel for the petitioner and Sri O.P. Maurya, learned counsel for the respondents.

2. In the present case, land in dispute is situated in Village 'Jangal Un', Tappa Un, Pargana: Magahar Purab, Tehsil-Khalilabad, District-Basti (now District-Sant Kabir Nagar).

3. During consolidation proceedings, objections under Section 9 (2) of Uttar Pradesh Consolidation of Holdings Act, 1953 were filed by petitioner's husband before Consolidation Officer, Khalilabad, District-Basti, (now, District-Sant Kabir Nagar).

4. Objections remained pending and meanwhile in the year 1997, a new district namely (Sant Kabir Nagar) was created and Tehsil-Khalilabad was made its Head Quarter.

5. It appears that Consolidation Courts were not established in the newly created District-Sant Kabir Nagar for many years, therefore, a transfer application was filed before Court of Settlement Officer of Consolidation, Basti as said Court was functioning. The transfer application was allowed and objection from the Court of Consolidation Officer: Khalilabad, District-Sant Kabir Nagar was transferred to the Court of Consolidation Officer (R) Basti, having jurisdiction of District-Sant Kabir Nagar also. The Consolidation Officer (R) Basti has decided objection ex-parte vide order dated 21.7.2018.

6. A recall application was filed by contesting respondents to recall order dated 21.7.2018 and said application was allowed ex-parte vide order dated 26.9.2018. Thereafter, another recall application was filed by petitioner to recall order dated 26.9.2018 and same was allowed vide order dated 8.4.2022. Above order was challenged at instance of contesting respondents by way of filing an appeal under Section 11 of the Act of 1953 before the Court of Settlement Officer of Consolidation, Basti.

7. The petitioner has raised an issue of territorial jurisdiction that at relevant time since the Consolidation Officer (R) Basti had jurisdiction of both districts and now consolidation courts have started working in district-Sant Kabir Nagar, therefore, appeal ought to have been filed before the Settlement Officer of Consolidation, Sant Kabir Nagar and Settlement Officer of Consolidation, Basti has no territorial jurisdiction.

8. During pendency of above referred appeal, respondent/appellant has approached this Court for expeditious disposal of appeal by filing Writ Petition No.2815 of 2023 which was disposed of vide order dated 10.8.2023 with a direction to decide the appeal within a period of six months, if there was no legal impediment.

9. Subsequently, an application filed by petitioner in respect of territorial jurisdiction was rejected by the Appellate Authority vide order dated 9.9.2022 placing reliance on judgment of a Full Bench this Court in ***Shabbar Hussain Vs. Dy. Director of Consolidation, Muzaffarnagar & Anr, 2019 (144) RD 51.***

10. Petitioner has challenged the above referred order by way of filing a revision petition, however, same was dismissed on similar grounds vide order dated 25.10.2023 passed by the Deputy Director of Consolidation.

11. Both the aforesaid orders are impugned in this writ petition.

12. Learned counsel for the petitioner submits that judgment of ***Shabbar Hussain (supra)*** is not applicable in the present case as when the matter was transferred to Consolidation (R) Basti having jurisdiction of Sant Kabir Nagar also, however now Appellate Authority is working at Sant Kabir Nagar and he further submits that facts of present case are distinguishable from ***Shabbar Hussain (supra)***.

13. Per contra, learned counsel appearing on behalf of contesting respondents submitted that issue of territorial jurisdiction has no basis. Admittedly, Consolidation Officer (R) District Basti has passed the order, therefore, appeal would lie before Appellate Authority at Basti only.

14. Heard learned counsel for the parties and perused the record.

15. In ***Shabbar Hussain (supra)***, Full Bench of this Court has considered the following issue:

"Whether the territorial jurisdiction to entertain/decide appeal on revision, against the order passed on the objection or appeal transferred outside the district will be at the transferred district or at the district where the subject matter of dispute/unit situates?"

16. The above referred issue was answered in following terms:

"34. Accordingly, we answer the reference in the following terms:

If an appeal or objection is transferred outside of the district, an application (revision) under section 48 of the Act would lie before the Deputy Director of Consolidation of the same district, where the matter was transferred and not in the District where holding or unit situates. "

17. In present case, there is no dispute that a transfer application was filed by one of the parties and matter was transferred to Consolidation Officer (R) Basti from Consolidation Officer, Sant Kabir Nagar, therefore, it was

transferred from one district to another district.

18. It has not been disputed that Consolidation Officer (R) Basti was having jurisdiction of Consolidation Officer at Sant Kabir Nagar at that relevant time.

19. Present is a case where proceedings were transferred to Consolidation Officer, Sant Kabir Nagar from Consolidation Officer, (R) Basti, therefore, this Court is of the considered opinion that judgment of ***Shabbar Hussain (supra)***, would be squarely applicable in facts and circumstances of present case also, therefore, Settlement Officer of Consolidation, Basti would have jurisdiction to hear the appeal. Only due to a fact that an Appellate Authority is now working at Sant Kabir Nagar would itself not render the Appellate Authority, Basti without jurisdiction.

20. This Court vide order dated 10.8.2023 has already directed to decide the appeal within a period of six months, therefore, in view of above discussion, I do not find any illegality in the impugned orders and the Appellate Authority at Basti who has jurisdiction to hear the appeal will abide by directions passed by this Court as referred above.

21. In view of the above, no interference is warranted in impugned order dated 25.10.2023 and this writ petition is disposed of with aforesaid direction and observations.

Order Date:-1.12.2023

SB