

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 8515 of 2023

Applicant :- Bhagauti

Opposite Party :- Sumitra Devi And 3 Others

Counsel for Applicant :- Arun Kumar Singh

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court on 27.01.2023 in Writ-C No.29257 of 2022 passed the following interim order:-

"Heard Mr. Harish Kumar Tripathi, learned counsel for the petitioner and Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents.

Learned counsel for the petitioner submitted that the petitioner filed mutation case under Section 34 of U.P. Land Revenue Act on the basis of unregistered Will-deed executed by the recorded tenure holder who happens to be Uncle of the petitioner. He further submitted that the Tahsildar has allowed the mutation case after considering the evidence of the marginal witness of the Will-deed in question. He next submitted that the appeal filed by the contesting respondents has been arbitrarily allowed. He also submitted that the revision filed by the petitioner has been decided in ex-parte manner and the restoration application filed by the petitioner has been rejected. He further submitted that no suit for cancellation of the petitioner's Will-deed has been filed before any Court, as such, the order passed by the Tahsildar mutating the name of the petitioner cannot be interfered with in appeal.

Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents submitted that the proceedings are summary in nature and, as such, no interference is required in the matter.

In reply, learned counsel for the petitioner submitted that the summary proceeding has been decided in accordance with law by the Tahsildar exercising the power under Section 34 of U.P. Land Revenue Act, as such, the same cannot be interfered with by higher forum and the interference by the higher Court against the order of the Tahsildar is abuse of process of law unless the petitioner's Will-deed is cancelled in accordance with law by the regular Court.

Matter requires consideration.

Issue notice to respondent nos.5, 6 & 7 returnable at an early date.

Steps be taken within ten days.

Respondent nos.5, 6 & 7 shall file counter affidavit within six weeks.

Petitioner will file rejoinder affidavit within two weeks thereafter.

List this case on 25.5.2023.

Until further orders of this Court, the effect and operation of the orders dated 8.6.2022 & 26.10.2016 passed by respondent no.2/ Additional Commissioner Judicial IInd and order dated 18.4.2001 passed by respondent no.3 / Sub-Divisional Magistrate / Assistant Collector Ist Class Forenda District- Maharajganj shall remain stayed."

From the perusal of the aforesaid interim order, no case for contempt is made out as only the mutation proceedings were not stayed by the writ Court.

In view of the said fact as there is no order passed by the writ Court directing the applicant to remain in possession over the plot, present contempt application is misconceived and the same stands dismissed.

Order Date :- 24.11.2023

SK Goswami