

Court No. - 52

Case :- WRIT - C No. - 40795 of 2023

Petitioner :- Jiya Hasan

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ratnesh Srivastava, Vinod Kr Pandey

Counsel for Respondent :- C.S.C., Harsh Vardhan Gupta

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Vinod Kumar Pandey, learned counsel for petitioner and Sri Rajkumar Singh, learned counsel for respondent nos.1 and 2.

2. In view of the order proposed to be passed, there is no need to issue notice to private respondent. With the consent of learned counsel appearing for the parties, this writ petition is being disposed of finally at this stage in terms of the Rules of the Court.

3. While challenging the order dated 15.09.2023, the only fact highlighted by learned counsel that the application dated 16.08.2023 preferred by respondent no.4 under Section 146 of U.P. Revenue Code, 2006 and the same was registered as Case No.3425 of 2023, Computerized Case No.T202313380403425 (Hasan Haider Vs. Jiya Hasan and others), wherein date was fixed for 20.09.2023 but the same was taken up on 15.09.2023 and interim order has been extended in favour of respondent no.4 which adversely affected the interest of petitioner. The action carried out by respondent no.2 has been alleged being acted under gross violation of principles of natural justice and the same has been assailed on the ground of non compliance of procedural law pertaining to conduction of matters pending and adjudicated before judicial/quasi judicial authority.

4. Over the submission made by learned counsel for petitioner, instructions were called from learned Standing Counsel and the same has been apprised today which are taken on record, by bare perusal of the instructions, it is transpired that the entire incident mentioned in the petition, has been accepted and ground for preponement submitted by the Sub Divisional Officer Naugawa, Distrcit Amroha has been mentioned in the instructions that since the petitioner was duly represented through his counsel and as such, over the oral submission made by respondent no.4, the date

fixed in the matter was preponed and interim order was granted in favour of respondent no.4.

5. Learned Standing Counsel also accepted that at the time of passing the order dated 15.09.2023, no opportunity was afforded to petitioner and the same was passed as an ex parte. He also submitted that provision prevails in favour of respondent no.2 for passing ex parte order, if urgency prevails.

6. After hearing the rival submissions extended by learned counsel for parties and by bare perusal of contents mentioned in the instructions received through the learned Standing Counsel submitted by respondent no.2, the reasons for preponement of the matter pending before respondent no.2, under Section 146 of U.P. Revenue Code, 2006, has not been properly explained, merely upon the oral submission made by counsel for respondent no.4 does not create any consideration compelling respondent no.2 to invoke the urgency clause of the matter in shape of passing interim order in favour of respondent no.4. The action carried out by respondent no.2 which is put under challenge in shape of order dated 15.09.2023 is liable to be set aside and as such, order dated 15.09.2023 is hereby set aside, matter is remitted back to the respondent no.2 to decide afresh after affording due opportunity of hearing to all concerned.

7. Accordingly, the present petition stands **allowed**.

Order Date :- 13.12.2023

Vivek Kr.