

Court No. - 52

Case :- WRIT - C No. - 40859 of 2023

Petitioner :- Subhawati And 3 Others

Respondent :- State Of U.P. And 18 Others

Counsel for Petitioner :- Manu Mishra,Asheesh Mani Tripathi

Counsel for Respondent :- C.S.C.,Sudhir Bharti

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Manu Mishra, learned counsel for petitioners and learned Standing counsel for State respondents.

2. Present petition has been filed seeking following reliefs:

"(i) To issue a writ, order or direction in the nature of certiorari quashing the impugned dated 29.12.2000 and 27.10.2023 passed by 3 & 2 respectively.

(ii) To issue a writ, order or direction in the nature of mandamus directing the private respondents may be directed not to interfere in peaceful possession of petitioners over the property in dispute being Gata no. 146 area measuring 0.623 hectare situated in village-Amauni Khas, Tappa-Nagwatokar, Pargana-Silhat, Tehsil-Rudrapur, District-Deoria."

3. It is the case of the petitioners that one Rajwatiya was original tenure holder of plot no. 146, area 0.623 hectare, situated at village Amauni Khas, Tehsil Rudrapur, District Deoria, who transferred the said property by means of an unregistered will dated 10.08.1974 in favour of respondent no. 14, on the basis of the said will deed, name of respondent no. 14 was mutated in the revenue record *vide* order dated 13.04.1998.

4. Being aggrieved with order dated 13.04.1998, recall application was filed by respondent no. 5 before respondent no. 4 on 01.06.1998 which was rejected *vide* order dated 08.02.2000. Again being aggrieved with the order dated 08.02.2000 and 13.04.1998, respondent no. 5 preferred an appeal before respondent no. 3, which was allowed by respondent no. 3 *vide* order dated 29.12.2000 setting aside the orders dated 13.04.1998 and 08.02.2000.

5. Being unsatisfied with the order dated 29.12.2000 passed by respondent no. 3, respondent no. 14 preferred revision before Commissioner, Gorakhpur Division, Gorakhpur. During pendency

of the said revision, plot in dispute was sold to the petitioners *vide* registered sale deed dated 19.10.2016. After execution of the sale deed dated 19.10.2016, petitioners came to know about the pendency of the aforesaid revision in respect of the plot in dispute, so petitioners moved application dated 13.10.2023 before respondent no. 2, seeking impleadment in the pending revision as revisionist. The application dated 13.10.2023 was allowed by respondent no. 2 *vide* order dated 13.10.2023 and the petitioners were arrayed as revisionist along with respondent no. 14/1 in the said pending revision. Thereafter, revision preferred by respondent no. 14 was dismissed *vide* order dated 27.10.2023 passed by respondent no. 2 which impugned the present petition.

6. Learned counsel for petitioner challenged the impugned order on several other grounds *inter alia* that impugned order dated 27.10.2023 has been passed by respondent no. 2 without affording opportunity of hearing to the petitioners which is in violation of principles of natural justice and denial to the mandatory provisions of *audi alteram partem*.

7. Learned Standing counsel vehemently opposed the prayer as made through the instant petition but could not dispute the facts mentioned therein.

8. After hearing the rival submissions extended by learned counsels for both the parties and perusing the records, it is crystal clear that order dated 27.10.2023 has been passed by the revisional authority i.e. respondent no. 2 without affording opportunity of hearing to the petitioners who were newly impleaded as revisionist in the said revision. Since the fate of the said revision would effect the rights vested in the petitioners on the basis of sale deed dated 19.10.2016 and hence they cannot be deprived of their right to be heard as per principles of natural justice.

9. In view of the observation made above, order dated 27.10.2023 passed by respondent no. 2 is hereby set aside. Matter is remitted back to respondent no. 2 for deciding afresh after affording due opportunity of hearing to all concerned. The above mentioned exercise shall be finalised as expeditiously as possible preferably within a period of three months from the date of production of certified copy of this order.

10. Writ petition stands ***disposed of*** accordingly.

Order Date :- 4.12.2023

Shaswat