

Court No. - 48

Case :- WRIT - B No. - 3955 of 2023

Petitioner :- Rakesh Kumar Srivastava And Another

Respondent :- Deputy Director Of Consolidation And 6 Others

Counsel for Petitioner :- Ashok Gupta, Chandra Shekhar Agnihotri

Counsel for Respondent :- C.S.C., Achal Singh

Hon'ble Saurabh Shyam Shamsbery, J.

1. Heard Sri Chandra Shekhar Agnihotri, learned counsel for the petitioners and Sri Ambuj Srivastava, Advocate holding brief of Sri Achal Singh on behalf of Gaon Sabha

2. In this writ petition, by order dated 25.11.2022, Deputy Director of Consolidation has rejected the revision petition on the ground of delay of about 13 years. A restoration application was also rejected on 19.9.2023.

3. Learned counsel for the petitioner fairly submitted that explanation for delay was not mentioned before Deputy Director of Consolidation and in the present case, paragraphs nos.9 to 12 are sufficient ground to condone the delay. For reference same are mentioned hereinafter:

"9. That the father of the petitioner was residing with the petitioner no.1 at Allahabad and Smt. Vidyawati was residing in the village and after passing the order dated 15.04.1995 passed by the respondent no.3 which was approved by order of the respondent no.2 dated 27.01.1997 Smt. Vidyawati was under impression that since the order has been passed in the favour of recorded tenure holders and the local counsel advised that the revenue records will be corrected automatically, however when the record was not corrected then an appeal/application under section 42-A of C.H. Act was filed on 30.01.2003 before the respondent no.2 which was wrongly and illegally rejected.

10. That the mother of the petitioner no.2, Smt. Vidyawati, after prolonged illness of 10 years, died on 07.12.2015, leaving behind three sons, namely, Santosh Kumar Mishra (Petitioner no.2), Rajendra Kumar Mishra (already dead) & Sushil Kumar Mishra (Already dead), who were unaware of the aforesaid proceedings.

11. That the father of the Petitioner no.1 died on 30.10.2008,

leaving behind petitioner no.1 as his only legal heir, who had absolutely no knowledge of the aforesaid proceedings, he resided at Allahabad. It is to be noted that the pairvi of the aforesaid proceedings was being done by the mother of the petitioner no.2 being the co-tenure holder, therefore, there was no occasion for the petitioner no.1 to get the information with regard to the same.

12. That when the petitioner no.1 visited at village Rajapur in the year 2018, he was heard turmoil in the village that land of the petitioners is going to be allotted to other person on lease, then he contacted the local counsel, and an enquiry of record was made then it transpired that the appeal has been rejected and record has not been corrected, therefore revision has been filed without any further delay."

4. Learned counsel for the petitioner further relied on para 6 of writ petition that it is a case of only a mistake in the detail of Khata number.

5. Learned counsel for the respondents has referred relevant paras of the impugned orders that since there was no sufficient ground to condone the delay, it was rightly rejected.

6. Heard learned counsel for parties and perused the records.

7. In the present case, issue is as to whether delay of 13 years could be condoned or not in filing the revision petition.

8. I have carefully perused the impugned orders and the materials available on record and I find that there are sufficient grounds to condone the delay of 13 years, therefore, taking a liberal approach as well as in the interest of justice, delay is condoned with cost of Rs.5000/- to be deposited by the petitioner before the District Legal Services Authority, Chitrakoot.

9. In the aforesaid circumstances impugned orders dated 19.9.2023 and 25.11.2022 are set-aside and since this Court has condoned the delay of 13 years, therefore Revisional Authority will consider the revision petition expeditiously within a period of six months from the date of filing a certified copy of this order before it.

10. With the aforesaid direction, this writ petition is disposed of.

Order Date :- 29.11.2023

SB