

Court No. - 52

Case :- WRIT - C No. - 40174 of 2022

Petitioner :- Reshi Jain

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Ashish Agrawal

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Shri Ashish Agrawal, learned counsel for the petitioner and Shri Dhananjay Kumar Singh, learned Standing Counsel appearing on behalf of respondents.
2. Learned counsel for the petitioner submitted that although the application under Section 24 of the U.P. Revenue Code, 2006 has been preferred by the petitioner for seeking demarcation of her plot no. 110, 111, 112, 113 and 115/1 situated at village Chalesar, Tehsil Edmadput, District Agra, but the same has not been registered, which espouses cause of action in favour of petitioner for preferring the present petition for seeking direction in the nature of mandamus commanding the respondent no. 2 to decide the application of the petitioner preferred under Section 24 (2) of U.P. Revenue Code, 2006.
3. Although the record of rights pertaining to the petitioner has not been appended along with the petition, but it is evident from the order dated 14.09.2005 passed by Board of Revenue in revision that the record of rights along with the revenue map pertains to year 1990 is available and the same has been perused by the Board of Revenue wherein, the name of the revisionist has already been entered, meaning thereby, there is hardly any dispute with regard to entries available in the revenue record pertaining to the petitioner.
4. While preferring counter affidavit on behalf of respondent no. 3, it has been demonstrated that the land in dispute is covered under Section 20 of the Indian Forest Act, 1957 as well as Forest Conservation Act, 1980 which is evident from

the revenue map.

5. Learned counsel for the petitioner fairly submitted that in accordance with the revenue map which is appended along with the rejoinder affidavit available at page no.14, plot no. 110 has been shown as a reserved forest land and no specific application or any proceeding initiated at the behest of the petitioner under Section 38 of the U.P. Revenue Code, 2006.

6. Shri Dhananjay Kumar Singh, Learned Standing Counsel vehemently opposed the prayer as made in the writ petition on the ground that as per the revenue records, the plot which has been mentioned in the application preferred by the petitioner for seeking demarcation is notified as a forest land and as such, no demarcation proceeding can be initiated at the behest of the petitioner. On precise query made before, learned Standing Counsel with regard to the entries available in the revenue record which is reflecting the name of the petitioner, learned Standing Counsel submitted that the entire determination as drawn while preferring the counter affidavit is on the basis of revenue map which is also appended by the petitioner while filing the rejoinder affidavit.

7. After having rival submissions extended by learned counsel appearing for the parties, it is crystal clear that petitioner is aggrieved with the action carried out by the responding authorities on the basis of their revenue map and the responding authorities are not acting in accordance with the entries available in the revenue record.

8. On the basis of the entries in the revenue record in shape of record of rights reflecting the name of petitioner seeking demarcation for plots pertains to the petitioner, but the same has been denied on the ground of the revenue map available with the revenue authorities which indicates that the plot numbers mentioned by the petitioner are covered with the notification issued under Section 20 of the Indian Forest Act and the same cannot be exceeded in pursuance to Section 2 of the Forest Conservation Act, 1980.

9. The entire proceedings in shape of conduction of demarcation under Section 24 of U.P. Revenue Code will be dependent upon the revenue map as well as the entries available in the record of rights pertaining to the petitioner, but in the instant matter, the entries available in the record of rights is not reflecting in the revenue map available with the revenue authorities.

10. In view of the aforementioned facts and circumstances, petitioner will be at liberty to prefer specific application under Section 38 of U.P. Revenue Code for seeking correction of the map with regard to plot numbers pertains to the petitioner available in the record of rights, if the same shall be preferred, will be decided in accordance with law by the competent authority, i.e., respondent no. 2 within a period of three months from the date of production of certified copy of this order.

11. The application preferred by the petitioner under Section 24 of the U.P. Revenue Code shall be dependent upon the outcome of the direction made above and the same is hereby directed to club with application under Section 38 of U.P. Revenue Code if, preferred by the petitioner, within the stipulated time as granted above.

12. The writ petition stands ***disposed of*** accordingly.

Order Date :- 29.11.2023

Vipasha