

Court No. - 47

Case :- WRIT - C No. - 41440 of 2023

Petitioner :- Smt. Atri And 4 Others

Respondent :- State Of U.P. And 15 Others

Counsel for Petitioner :- Rahul Kumar Tyagi

Counsel for Respondent :- C.S.C.,Sunil Kumar Singh

Hon'ble Manish Kumar Nigam,J.

1. Heard learned counsel for the parties and perused the record.

2. This writ petition has been filed for following prayer:

"(i) Issue an appropriate writ, order or direction for quashing the entire proceedings of Original Partition Suit No. 01811 of 2018, Computer Case No. T201811520101811; Association of Management Studies Vs. Rajbiri and others, pending before the Deputy Collector Revenue, Tehsil Sadar, District Meerut as well as quashing the impugned judgment and order dated 22.08.2023, passed by Respondent no. 2 in Original Partition Suit No. 01811 of 2018, Computer Case no. T201811520101811; Association of Management Studies Vs. Rajbiri and others, pending before the Deputy Collector Revenue, Tehsil Sadar, District Meerut (Annexure No. 1 to this writ Petition)."

3. Learned counsel for the petitioner contended that the proceedings under Section 116 of U.P. Revenue Code, 2006 cannot be decided unless the title proceeding filed by the petitioner under Section 144 of U.P. Revenue Code, 2006 are decided.

4. Contention of the learned counsel for the petitioner is misconceived. There is no bar that suit under Section 116 of U.P. Revenue Code, 2006 cannot proceed, in case the suit is filed thereafter under the provisions of Section 144 of U.P. Revenue Code, 2006. In the present case, the suit under Section 144 of U.P. Revenue Code, 2006 filed by the petitioner subsequent to the suit filed under Section 116 U.P. Revenue Code, 2006.

5. It is further contended by learned counsel for the petitioner that the petitioner has moved an application under Section 10 of C.P.C. for stay of proceeding of one suit filed under Section 116 of U.P. Revenue Code, 2006 on the ground that the title suit filed under Section 144 of U.P. Revenue Code, 2006 is pending.

6. Admittedly, the suit filed by the petitioner under Section 144 of U.P. Revenue Code, 2006 is subsequent suit and the provisions of Section 10 C.P.C. applies to a subsequent suit not to a previous suit. Question of title can also be decided while deciding the shares of the parties in proceedings under Section 116 of U.P. Revenue Code, 2006.

7. The writ petition as framed is wholly misconceived and is accordingly dismissed.

Order Date :- 1.12.2023

Ved Prakash

(Manish Kumar Nigam, J.)