Court No. - 49

Case :- WRIT - C No. - 42534 of 2023

Petitioner :- Jagannath Pal
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Vivek Kumar Pal,Shyam Mohan Singh
Counsel for Respondent :- C.S.C,Azad Rai

Hon'ble Syed Qamar Hasan Rizvi,J.

1. Heard Sri Vivek Kumar Pal, learned counsel for the petitioner; Sri Sridhar Tripathi, learned Standing Counsel for the State-respondent nos.1 to 3 and Sri Azad Rai, learned counsel for the respondent no.4-Gram Sabha.

2. The present writ petition has been filed seeking a writ in the nature of certiorari quashing the impugned show cause notice dated 04.11.2023 issued by the Additional District Magistrate (Judicial) District Kaushambi - respondent no.2.

3. The submission of learned counsel for the petitioner is that by means of the impugned notice, the respondent no.2 has called upon the petitioner to show cause as to why the proceeding under Section 128 of the U.P. Revenue Code, 2006 be not initiated against him. Further submission of learned counsel for the petitioner is that the petitioner in response to the said notice dated 04.11.2023 submitted a detailed reply as contained in annexure no.5 to the writ petition on 21.11.2023 and the same is still pending for consideration.

4. The contention of learned counsel for the petitioner is that on the earlier occasion also the proceeding for the cancellation of the allotment in favour of the petitioner was carried out but the same were ultimately dropped vide order dated 09.01.2001 passed by the Chief Revenue Officer. He vehemently argued that once the matter has attained finality and allotment in favour of the petitioner has been held to be valid, there is no occasion for the authorities to initiate fresh proceeding against the petitioner in respect of the same subject matter. He further argued that, in any case, the proceeding in question is in violation of the provisions of Section 128 of the Revenue Code, 2006 as the same has been initiated after a lapse of about 28 years which is not permissible under law.

5. Per contra, learned Standing Counsel for the State-respondents has raised an objection regarding the maintainability of the writ petition on the ground that since the present writ petition is arising out of a notice and as such the same is not entertainable being premature. He further submits that the petitioner has full opportunity to contest his case before the respondent no.2.

6. Considering the facts and circumstances of the case, this Court of the view that no useful purpose would be served to keep the present writ petition pending.

7. Accordingly, without adverting on merits of the case; with the consent of the learned counsel for the parties, this Court deems it appropriate to finally dispose of the present writ petition, at this stage, with a direction to the Additional District Magistrate (Judicial) District Kaushambi (respondent no.2) to consider and decide the case after taking into consideration the aforesaid reply / objection filed by the petitioner, strictly in accordance with law, as expeditiously as possible, by affording due opportunity of hearing to the petitioner.

8. With the aforesaid direction, the present writ petition is **disposed of**.

9. Needless to say that in case any adverse order is passed in the aforesaid proceeding in that event, it shall be open for the petitioner to challenge the same, in accordance with the provisions of law.

Order Date :- 8.12.2023
I.A.Siddiqui

Digitally signed by :-
IMRAN AHMAD SIDDIQUI
High Court of Judicature at Allahabad