

Court No. - 48

Case :- WRIT - B No. - 4059 of 2023

Petitioner :- Ajay And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ashok Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Shyam Shamsheery,J.

1. Heard Sri Ashok Kumar Singh, learned counsel for the petitioners .

2. Petitioners are aggrieved by the order dated 20.7.2023 whereby the application filed by their Father under Section 109-A (1) of Uttar Pradesh Consolidation of Holdings Act, 1953 for amaldaramad was rejected mainly on the ground that restoration application dated 3.9.2009 filed by one of the parties was pending.

3.Learned counsel for the petitioners submits that approach of the Consolidation Officer is not only erroneous, but contrary to well established principles of law and only on ground that restoration application is pending, application filed by the petitioners' father may not be rejected. Correct approach of the Consolidation Officer ought to have keep the application pending till restoration application is decided. Court cannot decline a relief to the petitioners by rejecting application on aforesaid ground.

4. In the aforesaid circumstances, I find merit in the argument of counsel for petitioners, therefore, this writ petition is **disposed of** with the following directions:

(i) Order impugned dated 20.7.2023 is set-aside and the application filed by petitioners father under Section 109-A (1) of the Act, 1953 is restored with further direction to decide it on merit.

(ii) It is further directed that restoration application dated 3.9.2009 which is pending for more than 14 years, if still not decided, shall be decided within a period of four weeks taking note of the judgment passed by Full Bench of this Court in ***Smt. Shivraji & Ors. Vs. Deputy Director of Consolidation, Allahabad & Ors, (1997) 88 RD 562*** and on basis of outcome of said application,

Consolidation Officer will proceed to decide the application filed by the petitioners' father in accordance with law.

Order Date :- 8.12.2023
SB