

Court No. - 21

Case :- SPECIAL APPEAL DEFECTIVE No. - 912 of 2023

Appellant :- Satyadev (Since Deceased) And 5 Others

Respondent :- State Of U.P. And 8 Others

Counsel for Appellant :- Vijay Kumar, Priyansh, Sr. Advocate

Counsel for Respondent :- C.S.C., Anup Kumar Srivastava

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Kshitij Shailendra, J.

1. The instant intra court appeal is directed against the order of learned Single Judge dated 23.11.2023 in Writ-B No. 3892 of 2023 filed by the contesting respondents. The order is as follows:

"1. List on 20.12.2023 at 2.00 PM.

2. The Court will appreciate if grievance of petitioners may be addressed before next date fixed.

3. Ms. Tanu Rupanwal, learned Standing Counsel is directed to convey concern of Court to the Authority concerned."

2. The relief claimed in the writ petition is as follows:

"Issue a writ, order or direction in the nature of mandamus directing and commanding the Respondent No.3, Upziladhikari, Tehsil Sadar, District Gorakhpur compliance the order dated 02.09.2023 passed by the Deputy Director of Consolidation, Gorakhpur and further pray to give a possession to the petitioners in Gata No. 42 bearing Plot No. 179 M. Rakba 0.091 hectare, situated at Mauja Jangaha, Tappa Rajdhani, Pargana Heveili, Police Station Khorabad, Tehsil Sadar, District Gorakhpur."

3. Sri Sanjeev Singh, learned Senior Counsel appearing for the appellants submitted that the order of Deputy Director of Consolidation dated 2.9.2023 of which implementation was sought by the contesting respondents in the writ petition, was challenged by the appellants by filing Writ-B No. 3980 of 2023. It was posted before the learned Single Judge for hearing on the same day. However, without passing any order in the said writ petition wherein the petitioner had also prayed for stay of the order of the Deputy Director of Consolidation dated 2.9.2023, the learned Single Judge has passed the impugned order in the writ petition of the contesting respondents. Although, there is no specific direction to implement the order dated 2.9.2023, but under the garb of the order of Writ-Court, the consolidation authorities and the police are in great hurry to give possession of the property to the

contesting respondent. He submits that over the said land, there exists a boundary wall and a tin shed as recorded in the impugned order itself. It is further urged that the effect of implementing the order dated 2.9.2023 would be rendering infructuous the writ petition of the appellants.

4. Sri Anup Kumar Srivastava, learned counsel appearing on behalf of the contesting respondents, submits that the appellants are only interested in delaying the proceedings. Their counsel did not advance any argument before the writ court on 6.12.2023 and, therefore, the Writ Petition was adjourned. He, however, has no objection in case this court directs for both the writ petitions being heard and decided on the next date. He further states that the contesting respondents waive their right to file counter affidavit in the writ petition of the appellants.

5. Sri Sanjeev Singh, learned counsel for the appellants, has no objection to the same.

6. Having regard to the stand taken by counsel for the parties before this Court, we dispose of the instant appeal by providing that the writ petition filed by the appellants as well as the writ petition filed by the contesting respondents be decided by the Writ Court preferably on the next date and, if not possible, within six weeks thereafter. It is further provided that until the writs are decided, the parties shall maintain status quo on the spot.

7. The impugned order of learned Single Judge shall stand modified accordingly.

(Kshitij Shailendra,J.) (Manoj Kumar Gupta,A.C.J)

Order Date :- 13.12.2023

Kumar Manish.