

Court No. - 18

Case :- WRIT - C No. - 1000815 of 2001

Petitioner :- Kripa Shanker And Others

Respondent :- Board Of Revenue Lucknow And Others

Counsel for Petitioner :- A.S.

Chaudhary,P.V.Chaudhary,Prabhakar Vardhan Chaudha

Counsel for Respondent :- C.S.C.,Mohd. Arif

Khan,Mohd.Aslam Khan,Ravi Shanker Tewari,Sheo Pal Singh

Hon'ble Shree Prakash Singh,J.

Order on Application for Substitution

Learned counsel for the petitioners/applicants is pressing the application dated 14.2.2023 and submits that respondent no.9, namely, Narendra Nath son of Chhavi Nath died on 8.1.2023 leaving behind legal heirs whose descriptions are mentioned in paragraph 2 of the substitution application. He further submits that notice has been issued and served upon the legal heirs of the respondent no.2. He, thus, submits that the substitution application may be allowed.

On the other hand, learned counsel for the State and learned counsel for the respondents have no objection to the submission aforesaid.

In view of the aforesaid submissions, the substitution application dated 14.2.2023 is hereby allowed.

The petitioners are permitted to carry out necessary amendments as per the description given in paragraph 2 of the substitution application.

Order on Writ Petition

Heard learned counsel for the petitioners, Sri Ravi Shankar Tiwari, learned counsel for the respondents, Sri Prafulla Kumar

Yadav, learned Additional Chief Standing Counsel for the State.

Instant petition has been filed with the prayer to issue a writ of certiorari for quashing the order dated 22.1.2001 passed by the respondent no.1.

Learned counsel for the petitioners submits that the private respondents after lapse of 20 years moved an application under Section 28 of the Land Revenue Act before court below, which was rejected. Thereafter, they filed revision before the Additional Commissioner, who, after affording opportunity of hearing to the parties, also dismissed the revision on 11.1.1994 in favour of the petitioners. He added that against the order passed by the Additional Commissioner on 11.1.1994, the private respondents instituted revision before the Board of Revenue bearing Revision No.86/L.R./93-94/Mirzapur, Radheyshyam, which was finally decided on 22.1.2001.

Contentions of the learned counsel for the petitioners are that learned Revisional Court while deciding the revision, has thoroughly gone into the factual matrix of the case, as an appellate court. He further added that the orders passed by the Additional Commissioner and the court below were not considered in right perspectives and after passing of lapse of 20 years and without giving any finding on the same, the impugned order has been passed, which is erroneous and liable to be set aside.

On the other hand, learned counsel for the private respondents has vehemently opposed the contentions aforesaid and pointed out that in fact, the revisional court has rightly passed the order dated 22.1.2001 while directing the authorities concerned that map in question be corrected as per the 'pushtikrit map/consolidation map' and as per the report dated 5.5.1985 of

the Naib Tehsildar addressed to the Sub Divisional Officer, which discloses apparently the correction was required and, therefore, the order passed by the revisional court is in no way erroneous. He next submits that in fact, the lacuna, which was apparent on the record, was corrected, vide order dated 22.1.2001, thus, submission is that the order dated 22.1.2001 passed by the revisional court is no way required to be interfered.

Learned counsel for the State has also supported the version of the learned counsel for the private respondents and submitted that the revisional court has rightly passed the order while setting aside the orders dated 11.1.1994 and 17.9.1990, passed by the courts below and the appellate court.

Having heard learned counsel for the parties, it transpires that the dispute arose after twenty years when an application was moved by the private respondents under Section 28 of the Land Revenue Act and, thereafter, the same was rejected by the court below. It is apparent that the order dated 17.9.1990 was challenged before the court of Additional Commissioner, which was also dismissed and ultimately the private respondents assailed the orders before the Board of Revenue which was allowed in favour of the private respondents on 22.1.2001, which is under challenge before this Court.

When this Court examined the order passed by the revisional court, it emerges that the revisional court directed that the map in question be corrected as per the 'pushtikrit map' of the consolidation proceedings and further report dated 5.5.1985 of the Naib Tehsildar. This Court also noticed the fact that since the orders dated 11.1.1994 and 17.9.1990 were not well considered orders as the same were passed while ignoring the fact that the 'pushtikrit map' of the consolidation proceeding is

otherwise than the leading map and, therefore, the Board of Revenue, while considering all these facts, have passed the order, thereby rejecting the orders dated 11.1.1994 and 17.9.1990.

In view of the aforesaid submissions and discussions, this Court does not find any merit in the writ petition.

Hence the instant writ petition is accordingly dismissed.

It is made clear that the observation made hereinabove would have no bearing of the merit of the case before the court below.

No order as to cost.

Order Date :- 30.11.2023
Ram Murti