

Court No. - 8

Case :- WRIT - C No. - 3000211 of 2003

Petitioner :- Ashok Kumar Lunatic Thru His Wife Smt. Gyaneshwari Devi

Respondent :- State Of U.P. Thru Collector Kheri And 2 Ors

Counsel for Petitioner :- Farooq Ahmad

Counsel for Respondent :- C.S.C, Anand Kumar Tripathi

Hon'ble Pankaj Bhatia, J.

1. Rejoinder Affidavit filed in court is taken on record.
2. Heard the counsel for the petitioner and the learned Standing Counsel.
3. The present petition has been filed by the petitioner challenging the order dated 23.09.2002 whereby the land in excess of the ceiling limits was agitated to the extent of 2.826 hectare. The petitioner also challenged the appellate order dated 05.03.2003 whereby the appeal preferred by the petitioner was dismissed.
4. The neat contention of the counsel for the petitioner is that on the basis of the pleadings, five issues were framed. While deciding the issue no.4 wherein the petitioner had pleaded that the land which stood in the name of the tenure holder Maithli Srivastava has been wrongly included while determining the ceiling limits, which was bad in law. The said issue was decided against the petitioner. The petitioner preferred an appeal against the said order. In the appellate order, it is recorded and was specifically argued that the finding in respect of the land which stood in the tenure holder of another tenure holder Maithli Srivastava was agitated, however while deciding the appeal, the said arguments specifically pleaded and argued has not been considered at all.
5. Thus, on the said limited grounds of non-consideration of the pleadings and arguments pertaining to decision on issue no.4, the appellate order cannot be sustained and the matter requires to be remanded. The matter is remanded to the appellate authority to render a finding in respect of the arguments pleaded and raised by the petitioner in respect of the finding on issue no. 4. The appellate authority shall proceed to decide the matter in terms of the directions given herein above in accordance with law with all expedition. The judgment dated 05.03.2003 insofar as indicated above, is set aside.
6. The writ petition is disposed off in terms of the said order.

Order Date :- 14.12.2023

VNP/-