

Court No. - 17

Case :- WRIT - C No. - 3000017 of 2004

Petitioner :- Ram Nath And 6 Ors

Respondent :- State Of U.P. Thru Secretary And 3 Ors

Counsel for Petitioner :- G.M Kamil

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Sri G.M. Kamil, learned counsel for the petitioners as well as learned Standing Counsel for respondent nos. 1 to 4.
2. By means of present writ petition the petitioner has challenged the order dated 25.01.1989, passed by the Prescribed Authority whereby finalising the proceedings under Section 10(2) read with Section 13(a) of the Act, 1960 as well as order dated 13.03.1998, whereby the application for recall has been rejected which was made for setting aside the ex-parte order.
3. It is submitted by learned counsel for the petitioners that on the previous occasion proceedings under Section 10(2) were initiated against the petitioner who is the original tenure holder and were concluded by various orders of the High Court and accordingly claim of sons of the petitioners was allowed and their lands were sought to be excluded from the holdings of the petitioners. In compliance of order of this Court as well as the appellate orders which had become final fresh notice under Section 10(2) read with Section 13(a) of the Act, 1960 was issued to the petitioners. The proceedings were finalised by the Prescribed Authority ex-parte on 25.01.1989 and an application for recall of the said order has been rejected by order dated 13.03.1998.
4. Learned Standing Counsel submits that the petitioner has efficacious remedy of appeal under Section 13 of the Act, 1960, where all the contentions can be raised by the petitioners and all the disputed questions of fact can be adequately adjudicated upon.
5. Learned counsel for the petitioners does not dispute existence of alternate remedy and at this stage submits that he may be permitted to withdraw the writ petition with liberty to file appeal before the appellate authority under Section 13 of the Act, 1960.

6. In the light of above, the writ petition is **dismissed as withdrawn** with liberty to the petitioner to file appeal under Section 13 of the Act, 1960.

7. Considering that rights of the petitioners were protected by interim order of this Court in the present writ petition, it is provided that said protection will continue for next one month from today, within which it is expected that the petitioners shall file appeal before the appellate authority.

8. It is made clear that interim protection granted by this Court shall lapse on 7th December, 2023, within which period if possible the appellate Court shall consider petitioners application for interim relief.

Order Date :- 8.11.2023

A. Verma

(Alok Mathur, J.)