

Court No. - 3

Case :- WRIT - C No. - 5259 of 2023

Petitioner :- Gaya Prasad

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue Civil Secrett. U.P. Lko. And 33 Others

Counsel for Petitioner :- Onkar Nath Tiwari

Counsel for Respondent :- C.S.C.,Mohan Singh

Hon'ble Subhash Chandra Sharma,J.

1. At the outset, learned counsel for the petitioner prays for and is allowed to make necessary correction in the array of parties i.e. respondent no. 11 during the course of day.

2. Heard Sri Omkarnath Tiwari, Advocate holding brief of Sri Ashutosh Mishra, learned counsel for the petitioner, Sri Ram Kumar Maurya, learned standing counsel for the State-respondent nos. 1,2, 9 and 10, Sri Mohan Singh, learned counsel appearing for the respondent no. 11 / Gaon Sabha and perused the record.

3. The writ petition has been filed by the petitioner seeking following relief:

"(i). to issue a writ, order or direction in the nature of certiorari impugned order dated 03.04.23 passed by opposite party no. 2 in Case No. 4208/2022 (Computerized Case No. T202204040104208) [Gaya Prasad vs. Sunil Singh and others] under Section 116 of U.P. Revenue Code, 2006 contained as Annexure No. 1 to this writ petition.

(ii) to issue a writ, order or direction in the nature of mandamus commanding opposite party no. 2 whereby private opposite parties may kindly be directed stop the construction and maintain status quo over plot in dispute.

(iii) to issue a writ, order or direction in the nature of mandamus directing opposite parties to decide the application dated 21.6.2023 of the petitioner in the interest of justice."

4. The contention of the learned counsel for the petitioner is that the suit for division of the holdings is pending before the Sub Divisional Magistrate, Akbarpur, District Ambedkar Nagar/respondent no. 2. He further submits that learned court of Sub Divisional Magistrate without taking into consideration has rejected the interim relief that was granted in his favour vide

order dated 22.07.2022. He further submits that because of the pendency of the suit, he is facing undue hardship and as such he prayed for the expeditious disposal of the suit in the interest of justice.

5. Paragraph 458 of U.P. Revenue Court Manual provides as under:

"Speedy Disposal-(1) The court shall endeavour to finally decide the suit within a period of one year from the date of institution of the suit and if the suit is not decided within the period aforesaid, the reason for the same shall be recorded.

(2) The appellate or the revisional court shall endeavour to finally decide the appeal or revision, as the case may be, within a period of six months from the date of filing the appeal or revision and if the appeal or revision is not decided within the aforesaid period, the reason for the same shall be recorded."

6. Since, there is a clear legislative mandate that if proceedings are not concluded within the period of time as provided under the aforesaid provision, reasons for the same shall be recorded.

7. Learned standing counsel as well as learned counsel for the Gaon Sabha submits that he has no objection to the extent that if a direction is issued by this Court for expeditious disposal of the case within the stipulated period as fixed by this Court.

8. In view of the order proposed to be passed, service of notice upon the respondent nos. 3 to 8 is dispensed with.

9. Taking into consideration the facts and circumstances of the case, this Court is of the view that no useful purpose would be served to keep this matter, this Court deems it appropriate to finally dispose of the present writ petition with a direction to Sub Divisional Magistrate, Akbarpur, District Ambedkar Nagar (respondent no. 2) to consider and decide the above-mentioned Case No. 4208/2022 (Computerized Case No. T202204040104208) [Gaya Prasad vs. Sunil Singh and others] under Section 116 of U.P. Revenue Code, 2006, in accordance with law, positively within a period of **six months** from the date a certified copy of this order is produced before him, by a reasoned and speaking order, after affording opportunity of hearing to the parties concerned, without granting unnecessary adjournments to either of the parties if there is no other legal impediment.

10. It is made clear that the Sub Divisional Magistrate concern shall decide the suit on its merit and this order shall not come in

the way of such proceedings.

11. It is also made clear that till the disposal of the ase No. 4208/2022 (Computerized Case No. T202204040104208), the parties shall maintain status-quo as on today.

12. With the aforesaid direction, present writ petition is ***disposed of.***

Order Date :- 27.6.2023

Ashok Gupta