

Court No. - 12

Case :- APPLICATION U/S 482 No. - 7990 of 2023

Applicant :- Rajendra Kumar Sharma And Another

Opposite Party :- State Of U.P. Thru. Secy. Home Deptt. Lko. And Another

Counsel for Applicant :- Atul Verma,Arvind Kumar Verma,Dr. Shailendra Sharma,Shitesh Jha

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. On 16.8.2023 & 11.12.2023, following orders were passed:-

16.8.2023

"1. Heard learned counsel for the applicants as well as learned A.G.A. for the State.

2. The present application has been filed for quashing the proceeding in the Case of State vs. Rajendra Kumar Sharma and others in Case No.153 of 2023 in Crime No.240 of 2021 U/s 420, 467, 468, 471 I.P.C., Police Station- Haidrabad, District- Lakhimpur Kheri as well as for quashing cognizance/summoning order against petitioners issued by court of A.C.J.M.-IIIrd, Kheri.

3. Learned counsel for the applicants submits that land in question was declared surplus under the provisions of Ceiling on Land Holdings Act vide order dated 30.5.2001 which was challenged before competent authority and appeal was also dismissed on 24.10.2011 by appellate court. Thereafter, petition was filed before this Court challenging the aforesaid orders in Writ Petition No.32 (Ceiling) of 2011 which was allowed vide judgement and order dated 19.04.2012. Thereafter, matter was remanded and the same is still pending. In the meantime, applicant also filed writ petition to expedite disposal of the case. He further submits that the sale deed was executed by applicant no.1 to sold out the property in question during the pendency of the case before A.D.M., Lakhimpur Kheri, therefore, F.I.R. in question was lodged by Rajnish Kumar Singh (Area Lekhpal) without examining this fact that earlier ceiling order was set aside and matter was remanded which is still pending.

4. Learned A.G.A. requests for some time to seek instructions from learned A.D.M., Lakhimpur Kheri as well as Investigating Officer.

5. List this case on 28.08.2023 as fresh."

11.12.2023

"1. List this case on 18.12.2023.

2. In the meantime, Shri Bhanu Pratap Singh, learned A.G.A. shall seek instructions about the status of the proceedings of ceiling case pending before A.D.M., Lakhimpur Kheri, in pursuance of the earlier order dated 16.08.2023.

3. It is made clear that, in case, instructions are not received by the next date, as directed aforesaid, A.D.M., Lakhimpur Kheri shall appear before this Court."

2. In pursuance of aforesaid order, instructions duly signed by Mr. Sanjay Kumar Singh, Prescribed Authority Ceiling/A.D.M., Lakhimpur Kheri is placed before this Court and the same is taken on record.

3. The instructions revealed that Smt. Soniya W/o Atmdev was the recorded tenure holder of the property in question and under the provisions of Ceiling Act, proceedings was initiated and property was declared as surplus land under the orders of Prescribed Authority, Ceiling dated 30.5.2001, which was upheld by the A.D.M., Lucknow vide order dated 24.10.2011. He further submitted that petition bearing no.32/2011, "Smt. Soniya Vs. State of U.P. and Ors." was filed and the aforesaid petition was allowed on 19.4.2012 by setting aside the order dated 30.5.2001 of the prescribed authority as well as order dated 24.10.2011 passed by the Additional Commissioner and matter was remanded. On 18.10.2019, the paper book related to the property in question was summoned by the competent authority, in the meantime, it came into notice that Soniya W/o Atmdev was no more and the instructions were sought about the death of Soniya but vide report dated 14.10.2019, the date of death of Soniya W/o Atmdev was not clarified. On 18.12.2019, Gaurav Sharma, Manager of Sri Ram Ratan Shashtri Mahavidyalaya, Sheetalpur filed substitution application and on 8.1.2020, application was also filed by Smt. Beena Pal, W/o Aman Pal for impleading her as party in the case, thereafter, on 29.7.2020, one application was also filed by Priyakant Tiwari for impleading him party and all these applications were decided on 6.1.2021 and Ram Ratan Shastri Mahavidyalaya was allowed to implead as a party and Gaurav Sharma and Priyakant Tiwari were allowed to plead their cases and the application of Beena Pal was rejected. Thereafter, Smt. Beena Pal challenged the

aforesaid order before the Additional Commissioner, which was rejected on 2.2.2022.

4. It was also informed by Mr. Shitesh Jha, Advocate (A.O.R. No.B-52452) that aforesaid order is challenged before this court, which is pending, as the paper book of Case No.587 under Section 12 of Ceiling Act is not traceable and the same is being searched. He also informed that one objection was filed by the State Government in the Case No.117/2001 under Section 10(2) of Ceiling Act, in which, it was informed that the power of attorney which was executed by Smt. Soniya in the favour of Rajendra Kumar Sharma & Amit Vashishtha on 10.6.2008 was surrendered by then on 14.10.2010. He also informed that Soniya W/o Atmdev died on 11.6.2018 and her death certificate issued by local Registrar, Birth and Death, Jalandhar is produced before this Court. He further informed that after the death of Soniya W/o Atmdev, petition no.33863 (M/S) of 2018 was filed through power of attorney holder, Rajendra Kumar Sharma, S/o Late Ram Ratan Shashtri, R/o Kothi Ganeshpur, Post Office-Maheshpur, Pargana-Haiderabad, Teshil Gola, District - Lakhimpur Kheri.

5. As it is very surprising that when Smt. Soniya died on 11.6.2018, thereafter, aforesaid petition was filed on 22.11.2018 in the name of Smt. Soniya through Power of Attorney Mr. Rajendra Kumar Sharma, in which, a direction was passed to the prescribed authority ceiling for expediting the proceeding which was remanded in the year 2012. Certified copy of the petition no.33863(M/S)/2018 filed on 22.11.2018 as well as death certificate of Soniya, W/o Atmdev issued by the Local Registrar, Birth and Death, Jalandhar, Punjab is taken on record.

6. After arguing at some length, applicant does not want to press the present application under Section 482 Cr.P.C.

7. Accordingly, the present application under Section 482 Cr.P.C. is **dismissed** as not pressed.

8. Office is directed to communicate this order to the Divisional Commissioner, Lucknow Division,

Lucknow, District Magistrate, Lakhimpur Kheri,
Prescribed Authority, Ceiling, forthwith.

Order Date :- 18.12.2023
Gaurav/-