

Court No. - 18

Case :- WRIT - B No. - 832 of 2023

Petitioner :- Sahabraj And Others

Respondent :- Deputy Director Of Consolidation, Faizabad
And 8 Others

Counsel for Petitioner :- Rakesh Kumar Nayak

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

Hon'ble Shree Prakash Singh,J.

Heard Sri Rakesh Kumar Nayak, learned counsel for the petitioners, Sri Prafulla Kumar Yadav, learned Additional Chief Standing Counsel for the State and perused the material placed on record.

The matter is being decided at the admission stage, thus, notices to the opposite party nos. 4 to 9 are dispensed with.

Instant petition has been filed seeking following relief:

"(i) issue a writ, order or direction in the nature of Certiorari thereby quashing the impugned order dated 18.8.2023 passed by the Deputy Director of Consolidation, District Ayodhya and order dated 18.12.1990 and 28.10.1993 passed by Additional Consolidation Officer/Consolidation Officer, by means of which the revision has been filed by the opposite party nos. 4 to 9, the Deputy Director of Consolidation, District Ayodhya has passed an order to set aside order dated 12.9.2012 passed by the Settlement Officer Consolidation, District Faizabad now Ayodhya and matter has been remitted back to the Settlement Officer Consolidation, District Faizabad (now Ayodhya) for fresh disposal of the appeal."

Contention of the learned counsel for the petitioners is that Gata No.185 bearing area 2.346 hectare has been recorded as original number of the opposite party nos. 4 to 9 and Gata No.188 area 0.479 hectare has been recorded in the name of the petitioner in the record of the settlement. Initially, the opposite party nos. 4 to 9 filed objection under Section 9A (2) of the U.P. C.H. Act 1953 (hereinafter referred to as 'the Act 1953') before the authority concerned with the prayer that areas of Gata No.185 and Gata No.187 should be increased on the basis of map whereafter, without affording opportunity of hearing, orders were passed on 18.12.1990 and 28.10.1993 by the authority concerned to the effect that area of Gata No.185 be changed to

2.590 hectare in place of 2.346 hectare and area of Gata No.187 be changed to 0.050 hectare in place of 0.026 hectare. Against the aforesaid orders, the petitioners filed appeal under Section 11 (1) of Act 1953 before the Settlement Officer of Consolidation which was decided on 12.9.2012. Against the order dated 12.9.2012, the respondent nos. 4 to 9 filed revision before the D.D.C., Faizabad (Ayodhya) which was decided on 18.8.2023 while giving finding that the respondents were not heard on the issue of condonation of delay.

Further contention of the learned counsel for the petitioners is that no fruitful purpose would be sub-served if the matter is again remanded back to the Settlement Officer of Consolidation for being heard on the issue of contention of delay and the issue including the condonation of delay can be decided by the Deputy Director of Consolidation itself on merits.

Learned counsel for the State though has objected the contentions aforesaid on merits but he has no objection if the Deputy Director of Consolidation concerned is directed to decide the matter on merits on his own level.

Having heard learned counsel for the parties and after perusal of material placed on record, it transpires that the matter has been remitted back by DDC, Faizabad(Ayodhya) before the Settlement Officer- Consolidation, for affording opportunity of hearing to the parties on delay and latches.

Since, there have been several set of litigation between the parties, since year 1990 and therefore, considering the provisions and settled proposition of law that the DDC can decide this matter at his own level, seems to be appropriate.

Consequently, the order passed by Deputy Director of Consolidation, District Ayodhya dated 18.08.2023 is hereby set aside.

The matter is remitted back to the Deputy Director of Consolidation, District Ayodhya to decide the matter on its own level while affording of hearing to all concerned.

The liberty is given to the petitioners to move an interim relief application before the Deputy Director of Consolidation, concerned, while assailing the orders before the same.

If the petitioners approach the Deputy Director of Consolidation, concerned within a period of 15 days, while submitting this order, the matter shall be decided within further period of four months.

Deputy Director of Consolidation, shall not grant unnecessary adjournments to either of the parties.

With the aforesaid observations, instant petition is hereby **allowed.**

Order Date :- 12.12.2023

Ram Murti