

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5080 of 2023

Petitioner :- Smt. Satyabhama And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue, Lucknow And 2 Others

Counsel for Petitioner :- Nijam Ahamad

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania,J.

Heard learned Counsel for the petitioner and Sri Anurag Kumar Maurya, learned State Counsel.

In view of the order proposed, issuance of notices to private opposite parties is hereby dispensed with.

The present petition has been filed for the following main relief:-

"(i) issue a direction to the opposite party No. 2 i.e. Naib Tehsildar, Tehsil Jalalpur, District- Ambedkar Nagar to decide the pending case No. T202104040204657 under section 34 of the U.P. Revenue Code 2006 "Satyabhama & another Versus Taluka Devi" since 4.12.2021 expeditiously within stipulated period as early as possible."

Earlier the petitioner has approached this Court for the similar relief sought by means of filing writ under Article 227 No. 2673 of 2022 (Smt. Satyabhama and another Versus State of U.P. and another), which was disposed of vide order dated 29.07.2022. The relevant portion of the order dated 29.07.2022 reads as under:-

"As the petitioner has already approached the competent authority under the provisions of Section 34 of the U.P. Revenue Code, 2006 by filing Case No. T-202104040204657, which is pending before respondent No.2, it is provided that the aforesaid proceedings be taken to its logical end within a period of four months from the date of receipt of a certified copy of this order after providing opportunity of hearing to concerned parties provided there is no legal impediment or to record the reasons for not deciding the same. It is further provided that the petitioner shall not seek any adjournment before the concerned Court and in case of any adjournment on the part of the petitioner, the benefit of this order would not be available to her.

It is however clarified that all facts shall be subject to due verification and any proceeding that may be adopted will be with due notice to all the concerned/affected parties.

It is made clear that this Court has not gone into the merits of the case.

Learned counsel for the petitioner undertakes that if lawyers are abstaining from work even then the petitioner shall put in appearance and argue the case failing which benefit of this order will not be available to the petitioner.

With the aforesaid observations, the writ petition is disposed of. "

After the aforesaid order, the petitioner preferred a contempt petition alleging therein that despite the order of writ Court dated 29.07.2022, the mutation case in issue, has not been disposed of within the specified period.

On 17.01.2023, this Court dismissed the contempt petition on account of the fact that petitioner failed to appear on the dates fixed before the concerned court. The order dated 17.01.2023 being relevant is quoted hereinunder:-

"This application has been filed alleging non compliance of the order 29.07.2022 (Matters Under Article 227) No.2673 of 2022. By means of the aforesaid order this Court had directed to dispose of the proceedings under Section 34 of the U.P. Revenue Code, 2006. It has further been provided that petitioner shall not seek any adjournment before the concerned Court and in case he seeks any adjournment and does not appear she is not entitled for the benefit of the order. An undertaking of the learned counsel for the applicant has also been recorded that if lawyers are abstaining from work even then the petitioner shall put in appearance and argue the case failing which benefit of this order will not be available to the petitioner. A copy of the order sheet w.e.f. 18.07.2022 to 15.12.2022 has been placed on record as annexure no.4 to the application, which indicates that on most of the dates the lawyers were on strike and the applicant has never appeared on the said dates to assist the Court for disposal of the case. The order sheet also does not reflect that the order has been brought to the notice of the Court in the case proceedings though it has been served separately on 05.08.2022.

In view of above, since the applicant has not complied his undertaking the applicant is not entitled for the benefit of the order dated 29.07.2022, thus the wilful and deliberate disobedience of the order can not be alleged and this application is not tenable."

The present petition is second petition for the same relief and in view of order of Writ Court dated 29.07.2022 as also the order of Contempt Court dated 17.01.2023, the petitioner ought to have approached this Court with proper pleadings and evidence in support thereof, particularly with regard to an undertaking, however in the present petition there is no averment that petitioner has submitted his undertaking before the concerned revenue court with regard to appearance on each date fixed, even if the lawyers are abstaining from work. On the other hand Annexure No. 5 (copy of order sheet) indicates that the petitioner failed to appear on several dates fixed.

For the reasons aforesaid, this Court is not inclined to entertain the present petition and the same is **dismissed**.

Order Date :- 10.10.2023

Jyoti/-