

Court No. - 18

Case :- WRIT - B No. - 932 of 2023

Petitioner :- Ram Chandra

Respondent :- State Of U.P Thru. Prin. Secy., Revenue Deptt., Lucknow And 3 Others

Counsel for Petitioner :- Ambika Prasad Mishra

Counsel for Respondent :- C.S.C., Aman Bahadur, Anupam Mishra, Gaurav Singh, Shaswat Tripathi

Hon'ble Saurabh Lavania, J.

Vakalatnama filed by Shri Rajeiu Kumar Tripathi, Advocate, on behalf of opposite party Nos.4-Rajesh Pathak is taken on record.

Caveat filed by the learned counsel for the private opposite parties is taken on record.

In the first paragraph of the memo of the petition, the petitioner has stated as under:-

"1- That this is first writ petition is being filed before this Hon'ble Court on the present subject matter involved in this case. No other petition has been filed either at Hon'ble Allahabad High Court or its Lucknow bench, Lucknow."

The statement made in the para 1 of the present petition is a false statement as appears from para 12 of the present petition, according to which the earlier writ petition filed by the petitioner was dismissed with liberty to file fresh. The para 12 of the memo of the present petition on the production reads as under:-

"12- That thereafter the petitioner had filed a writ-B No. 650 of 2023 in the name of Ram Chandra Vs State of U.P. same is listed on 31-07-2023 before this Hon'ble Court and during the course of day the aforesaid writ petition is dismissed as not pressed due to petition has been filed against dead person namely Anita as the opposite parties No.5 with the liberty file the fresh petition as aforesaid. The photo/typed copy of the order dated 31-07-2023 passed by this Hon'ble Court is being annexed as Annexure No.8 to this writ petition."

Thus, this Court is of the view that the present petition is not filed with clean hands. Just to mislead this Court, the declaration has been made in para 1 of the present petition that this petition is first petition on the subject matter involved in the case. The person, who has not come with the clean hands is not entitled to the relief(s) sought.

Further, this petition challenges the orders passed in mutation proceedings and it is settled law that mutation proceedings are summary in nature and they do not decide any right or title between the parties; rather they are drawn only for fiscal purposes. Furthermore, the order passed in mutation proceedings are always subject to declaration of rights which may be sought by the parties concerned by instituting a regular suit.

Section 40A of the U.P. Land Revenue Act, 1901, (now repealed) as also Section 39 of U.P. Revenue Code, 2006, which is applicable w.e.f. 11.02.2016, make it clear that no mutation order shall debar any person from establishing his rights in the land by means of a regular suit. Mutation of a property in revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue. The mutation proceedings do not adjudicate the rights of the parties and orders passed in mutation proceedings are always subject to adjudication by competent Court. The petitioner can file a regular suit seeking declaration of his rights.

For the reasons aforesaid, the present petition is **dismissed**.

Order Date :- 16.10.2023/Raj