

Court No. - 18

Case :- WRIT - B No. - 915 of 2023

Petitioner :- Urmila

Respondent :- Board Of Revenue, U.P. Lucknow Thru.
Chairman And 2 Others

Counsel for Petitioner :- Vidya Bhushan Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania,J.

Heard Sri Vidya Bhushan Pandey, learned counsel for the petitioner and Sri Hemant Kumar Paney, learned State counsel appearing for the respondents Nos. 1 & 2.

In view of order proposed to be passed, issuance of notice to the private-respondent(s) is hereby dispensed with.

By means of this petition, the petitioner has assailed the order dated 25.11.2000 passed by respondent No. 2/Tehsildar, Tehsil Lalganj, District Mirzapur in Mutation Case No. 124/403 (Urmila Devi vs. Chandrakali), which was instituted under Section 34 of U.P. Land Revenue Act, 1901 (in short "Act of 1901"). The petitioner has also assailed the order dated 19.07.2023 passed by respondent No. 1/Board of Revenue, U.P., Lucknow in Case No. REV/126/2003-2004/Mirzapur, Computerized Case No. R200416310019542 (Smt. Urmila vs. Chandrakali), which was instituted under Section 219 of the Act of 1901.

A perusal of order dated 02.11.1998, which was favourable to the petitioner, indicates that the claim of the petitioner was based upon a notarized 'Will' and the statements of witnesses.

It appears from the record that an application was preferred by the respondent No. 3/Chandrakali for recall of the order dated 02.11.1998 passed by the respondent No. 2 on an application for mutation of name preferred by the petitioner on the ground that the order dated 02.11.1998 has been obtained by indicating that Chandrakali (respondent No. 3) has expired.

Thereafter, as appears from the order dated 25.11.2000, that upon due notice, the petitioner failed to appear before the respondent No. 2 and respondent No. 2 recalled the order dated

02.11.1998 and consigned the matter to record.

Vide order dated 19.07.2023, the respondent No. 1 dismissed the revision filed by the petitioner after observing that the substantial justice would prevail over procedural irregularity.

Admittedly, the orders, under challenge, have been passed in mutation proceedings and the ground of challenge broadly is to the effect that it is a case of impersonation.

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 orders 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 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, makes 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.

Considering the facts of the case, indicated in brief hereinabove, as also the age of litigation and also that the ground of challenging the impugned orders broadly is to the effect that it is a case of impersonation, I am of the view that the issue involved in this petition requires proper adjudication and accordingly, I am not inclined to entertain this petition, which is disposed of with liberty to the petitioner to institute a regular suit seeking declaration of her rights over the property in dispute within three months from today before appropriate Court/Forum.

Taking note of the dispute, it is provided that the Authority/Court concerned shall consider and decide the suit, if instituted, expeditiously. For conclusion of proceedings expeditiously, the Authority/Court concerned shall avoid adjournments.

In regard to interim relief, it is provided that if an application seeking interim relief is preferred by the petitioner before the Court/Authority concerned in the proceedings if initiated by the

petitioner, the Court/Authority concerned shall consider and dispose of the same as early as possible, say within a period of two months from the date of preferring the application seeking interim relief after providing proper opportunity of hearing to the parties concerned, if there is no other legal impediment.

It is further provided that in case a suit is filed within the aforesaid period and this fact is brought to the notice of the concerned revenue authority, then the said revenue authority shall indicate the details of suit in the revenue record. It is for the reason that the entry of details of the suit in revenue records would avoid further litigation, which can be on account of transferring the property in issue or by creating charge over the same.

It is further directed that in case the petitioner institute any suit, the defendants therein will cooperate with the proceedings and shall not seek any unnecessary adjournments.

With the aforesaid observations/directions, the petition is ***disposed of***.

Order Date :- 12.10.2023

Arun/-