

Court No. - 18

Case :- WRIT - B No. - 917 of 2023

Petitioner :- Ramanuj And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue, Lucknow And 7 Others

Counsel for Petitioner :- Rajendra Singh Chauhan, Manish Kumar Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania, J.

Heard.

By means of present petition, the petitioners have impeached the order dated 29.05.2023 passed in the revision filed under Section 219 of the U.P. Land Revenue Act, 1901 (in short "Act of 1901"), registered as Case No.REV/2670/2018/Hardoi, Computerized Case No.R20181033002670 by the opposite party No.2-Board of Revenue, U.P., Lucknow and the order dated 23.10.2018 passed by opposite party No.3-UP Ziladhikari/Assistant Collector First Class, Swayazpur, District-Hardoi and the order dated 03.06.2014 passed by the opposite party No.2-Tehsildar Swayazpur, District-Hardoi.

In nut shell, this petition under Article 226 of the Constitution of India challenges the order(s) passed in mutation proceedings.

Fact of the case in brief are that the claim of the petitioners over the land/gata, in issue, No.89/1.3330 hect. is based upon the final order dated 12.01.1996 passed by Assistant Collector First Class, and Pargana Adhikari Shahbad, District-Hardoi in Case No.168/157/252/9/16/13/280, Year-1977, (Smt Rani Devi vs. Smt. Sudari and others), under Section 209 of U.P. Z.A. and L.R. Act 1950 (in short "Act of 1950").

The claim of the side opposite is based upon the registered sale deed dated 15.12.2008 executed by one Rajrani W/o Shiv Kumar with regard to the gatas in issue.

It appears from the impugned orders that the revenue authorities in the mutation proceedings declined to accept the claim of the petitioners.

It further appears from the record that the dispute regarding claim over the gatas, in issue, is pending before the

Consolidation Officer, Swayazpur, District-Hardoi.

To confirm regarding pendency of the case before the Consolidation Officer concerned, on being asked, the learned counsel for the petitioners, Shri Rajendra Singh Chauhan, stated that the case is still pending. To substantiate, Shri Chauhan, learned counsel for the petitioners made a reference to the questionnaire annexed as annexure 7. A perusal thereof indicates that the case is pending, however, in the same case number has not been indicated.

Thus, from the aforesaid, it appears that the dispute regarding title over the gata No.89/1.3330 hect., in issue, is pending before the Consolidation Officer, Swayazpur, District-Hardoi and mutation proceedings are summary in nature and the authorities under the Act of 1901 cannot decide the question of title.

It would be apt to indicate that the orders passed in mutation proceedings have been challenged broadly on the basis of order dated 12.01.1996 passed in the case instituted under Section 209 of the Act of 1950 and also 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 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.

Considering the facts of the case, indicated in brief, including that the dispute of title is pending before Consolidation Officer concerned, as indicated above, and law related to mutation proceedings and also that any obstruction made by this Court on the grounds taken in the present petition would prejudice the

case of the parties before the Consolidation Officer, I am not inclined to entertain in this petition. Accordingly, the petition is **disposed** of with liberty to the petitioners to press their claim before the Consolidation Officer, Swayazpur, District-Hardoi, who shall decide the case expeditiously, if the same is pending, preferably within a period of six months, if possible and if there is no other legal impediment from the next date fixed.

In regard to interim relief, it is provided that if an application seeking interim relief is preferred by the petitioners before the Authority concerned, the same shall consider and dispose of the same as early as possible, say within a period of one month from the next date fixed after providing proper opportunity of hearing to the parties concerned, as per law, if there is no other legal impediment.

It is further provided that in case the fact regarding pendency of case before Consolidation Officer is brought to the notice of the concerned revenue authority, then the said revenue authority shall indicate the details of case in the revenue record. It is for the reason that the entry of details of the case 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.

Order Date :- 12.10.2023/Raj