

Court No. - 18

Case :- WRIT - C No. - 9160 of 2023

Petitioner :- Ram Sewak

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Revenue Deptt.,
Lko. And 2 Others

Counsel for Petitioner :- Manju Nagaur

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

Hon'ble Saurabh Lavania,J.

1. Heard Ms. Manju Nagaur, learned counsel for the petitioner, Shri Hemant Kumar Pandey, learned counsel for State-respondent nos. 1 & 2 and Shri Mohan Singh, learned counsel for respondent no. 3/Gaon Sabha.

2. By means of this petition, the petitioner has assailed the impugned order dated 27.04.2022, Annexure No. 1 to the petition, passed by Nayab Tehsildar, Dariyaband, Tehsil - Ramsanehighat, District - Barabanki (respondent no. 2) in Case No. 00185 of 2020 (Computerized Case No. T202004120200185, Ram Sewak Vs. Ram Lal).

3. The respondent no. 2 has passed the impugned order dated 27.04.2022 on an application dated 27.04.2022, Annexure No. 2 to the petition, preferred by the respondent no. 3/Gaon Sabha, Aliyabad.

4. Assailing the order dated 27.04.2022, learned counsel for the petitioner stated that an application was moved on 27.04.2022 for recalling of order dated 19.08.2021, Annexure No. 6 to the petition, passed in mutation case no. 00185 of 2020 (Computerized Case No. T202004120200185, Ram Sewak Vs. Ram Lal) under Section 34 of U.P. Revenue Code, 2006 and on the same date i.e. 27.04.2022, the impugned order recalling the order dated 19.08.2021 has been passed. Thus, the order has been passed by the Authority concerned without affording any opportunity to the petitioner, in whom favour the order dated 19.08.2021 was passed.

5. The aforesaid is not in dispute.

6. Considered the submissions advanced by learned counsels for the parties and perused the record.

7. It is trite law that an order should be passed after affording proper opportunity of hearing. In the instant case, it is apparent that proper opportunity of hearing was not provided to the petitioner. Accordingly, this Court finds that indulgence in the present case is required.

8. In view of above, the order dated 27.04.2022, Annexure No. 1 to the petition, is set aside. The matter is remanded back to Nayab Tehsildar, Dariyaband, Tehsil - Ramsanehighat, District - Barabanki (respondent no. 2) to pass afresh order on the application dated 27.04.2022 preferred by the respondent no. 3/Gaon Sabha, Aliyabad after affording proper opportunity of hearing to the parties concerned.

9. The petitioner shall remain present on 31.10.2023 before the concerned Revenue Court, who shall decide the application, in issue expeditiously say within a period of three months.

10. To conclude the proceedings, he shall not grant any adjournment to the parties.

11. In case, the petitioner fails to appear before the Revenue Court, the benefit of this Order shall not be available to the petitioner.

12. With the aforesaid, the petition is **allowed**.

Order Date :- 18.10.2023

Mohit Singh/-