

Court No. - 18

Case :- WRIT - B No. - 964 of 2023

Petitioner :- Naveen Sahkari Grih Nirman Samiti Ltd., Lko.
Thru. Secy., Lakhan Singh

Respondent :- Chairman, Board Of Revenue, Lko. And Others

Counsel for Petitioner :- Dhiraj Chaurasiya

Counsel for Respondent :- C.S.C., Pankaj Verma

Hon'ble Saurabh Lavania, J.

Heard.

Under challenge is the order dated 03.10.2023 passed by the opposite party No.1 in Case No.TA/2378/2023/Lucknow, Computerized Case No.R20231046002378 whereby, the prayer to transfer the Second Appeal No.676 of 2021 from the Revenue Court of opposite party No.2 to any other competent Court, has been rejected. The petitioner has also prayed for transferring the Second Appeal from the Revenue Court of opposite party No.2/Second Appellate Authority to any other Revenue Court.

First ground to get the case transferred, broadly, is to the effect that opposite party No.2/Second Appellate Authority is not passing the orders, as required under the law.

Second ground is to the effect that the opposite party No.41-Sunil Kumar Dubey in the second appeal is a land grabber and has influenced the opposite party No.2/Second Appellate Authority.

In regard to other opposite parties, there is no allegation that they have influenced the opposite party No.2/Second Appellate Authority.

The allegations against the opposite party No.2/Second Appellate Authority that he is under influence of opposite party

No.41-Sunil Kumar Dubey (opposite party No.49 in the present petition), as appears from the record, are vague. To substantiate the same, there is no evidence on the basis of which it can be, prima facie, deduced that the opposite party No.2/Presiding Officer/Second Appellate Authority is under influence of opposite party No.41-Sunil Kumar Dubey.

At this stage, learned counsel for the petitioner referred the order passed by the Bar Council of India in the disciplinary proceedings instituted against the opposite party No.41-Sunil Kumar Dubey (opposite party No.49 in the present petition) and one Sri Anil Kumar Dubey, Advocate. However, this order does not indicate that the opposite party No.41-Sunil Kumar Dubey, has a link with the opposite party No.2/Second Appellate Authority.

On the issue of transfer of a case the reference can be made on the judgments of this Court passed in the case(s) of **Salamat Ullah and Another vs. Ram Autar Khandelwal and Others** reported in **2011 (10) ADJ 294 (LB)**; **Amit Agrawal vs. Atul Gupta** reported in **2014 SCC OnLine AII 16200** as also judgment dated 10.09.2012 passed in **Transfer Application (Civil) No.290 of 2012 (Shakeela vs. Mehboob Ali Siddiqui)** and judgment dated 12.11.2014 passed in **Transfer Application (Civil) No.524 of 2014 (Kaneej Fatma vs. Mohd. Tayyab)**.

In the instant case, from the perusal of record it is crystal clear that only on mere apprehension and suspicion that the concerned Revenue Court i.e. opposite party No.2/Second Appellate Authority would pass the order against the petitioner in pending Appeal, the application for transfer was moved, which was rejected and being aggrieved, the present petition has been filed. Further, from bare perusal of application seeking transfer as also the averments made in the present petition, it is

apparent that the allegations are absolutely vague and unsubstantiated.

Another ground seeking transfer of the Second Appeal is based upon the fact that opposite party No.2/Second Appellate Authority has passed erroneous order(s). Mere fact that an erroneous order has been passed is not in itself a ground for transfer as it does not necessarily lead to inference of bias **(See:-Madanlal vs. Babulal reported in AIR 1962 Mani 42).**

Taking note of the aforesaid in the light of observations in the judgment(s), referred hereinabove, I do not find any ground to allow the present petition. Accordingly, the same is hereby **dismissed.**

Before parting, it is expected that opposite party No.2 shall consider and decide the Appeal, in issue, strictly in accordance with law.

Order Date :- 26.10.2023/Vinay/-