

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5564 of 2023

Petitioner :- Ram Sadal And Others

Respondent :- State Of U.P. Thru. Addl Chief/ Prin. Secy., Revenue, Lucknow

Counsel for Petitioner :- Aviral Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania,J.

1. Learned counsel for the petitioner stated that necessary parties could not be impleaded as also the necessary facts in the prayer clause could not be incorporated inadvertently and he may be permitted to implead necessary parties in the array of the parties as also to incorporate necessary facts in the prayer clause during the course of the day.

2. To the aforesaid prayer, no serious objection has been raised by the learned counsel for the State.

3. Accordingly, the prayer is acceded.

4. The counsel for petitioner is permitted to implead the necessary parties in the memo of petition and to incorporate necessary facts in the prayer clause during the course of day.

5. Heard.

6. Present petition has been filed with the following main reliefs:

"Issue an order or direction to respondent no. 2, Naib Tehsildar, Dhaneypur, District - Gonda to decide the recall application along with delay application dated 27.06.2013 bearing Case No. 48/924/16/17 (Kuwarpati Vs. Ramsaram) of the Gata No. 48/4.67 hectare situated in Village Basantpur, Pargana, Tehsil and District - Gonda within stipulated period of time which this Hon'ble Court deem proper in the circumstances of the case."

7. Considered the fact that the initial order in the case for mutation was passed on 28.11.1997 and thereafter, an application for restoration dated 06.12.1997 was filed by one Ram Gopal (opposite party no. 3)

for recalling the order dated 28.11.1997 and this application was decided vide order dated 11.05.2012 and thereafter to recall the order dated 11.05.2012, the opposite party no. 3 preferred an application dated 31.05.2012 which was dismissed on 29.04.2013 and thereafter application to recall the order dated 29.04.2013 was preferred by the opposite party no. 3 along with the application for condonation of delay and the same are pending consideration and on account of the same, the petitioners are suffering great hardships and mental agony.

8. Upon due consideration, the present petition is **disposed of** with direction to respondent No. 2 - Naib Tehsildar Dhaneypur, District-Gonda to consider the application for condonation of delay first and thereafter proceed to decide the application for restoration preferred by the opposite party no. 3. It is in view of law laid down by this Court in the case of **Ram Prakash v. Deputy Director of Consolidation and Others** reported in **2022 SCC OnLine All 107**.

9. The aforesaid exercise be completed by opposite party no. 2 most expeditiously, after affording full opportunity of hearing to the parties, but without granting any unnecessary adjournment to either of the parties within a period of four months from the next date fixed in the case, if possible and if there is no other legal impediment.

10. It is made clear that the Court has not examined the case of either of the parties on merits and the authority concerned shall be free to decide the matter strictly in accordance with law.

Order Date :- 31.10.2023

Mohit Singh/-

(Saurabh Lavania,J.)