

Court No. - 18

Case :- WRIT - C No. - 9652 of 2023

Petitioner :- Indrajeet

Respondent :- Additional Commissioner (Administration),
Ayodhya Division, Ayodhya And Others

Counsel for Petitioner :- Rakesh Kumar Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Shree Prakash Singh,J.

Heard Sri RK Srivastava, learned counsel for the petitioner, Sri Hemant Pandey, Learned Standing Counsel for the State and perused the material placed on record.

The instant petition has been filed with the following prayer:-

"issue a writ, order or direction in the nature of Certiorari quashing the order dated 25.11.2022 passed by opposite party no.1 i.e. Additional Commissioner (Administration) Ayodhya Division, Ayodhya in Revision No. 1606 of 2022 (Computerised Case No.C202204000001606) Indrajeet Vs Jagdeo U/S 210 of UP. Revenue Code, 2006 and the orders dated 06.06.2022 & 10.02.2020 passed by opp. party no. 2 i.e. Naib Tehsildar Ayodhya, Tehsil-Sadar, Distt-Ayodhya in Mutation Case No. 2868 of 2016 (Computerised Case No. T20160423012868) U/S 34 of U.P. Revenue Code, 2006"

The learned counsel for the petitioner submits that a dispute arose with respect to plot nos. 485 measuring area 0.3500 hectare and 537 measuring area of 0.1850 hectare situated at Village Fatehpur District Ayodhya. He submits that father of the petitioner was the original tenure holder who died and thereafter the land in question was recorded through PA-11 vide order dated 28.10.2016 in favour of the petitioner. In the meantime, one Jagdev, on the basis of a forged sale deed dated 20.09.1991, claimed his right over the land in question and he moved an application under Section 34 of the Land Revenue Act for recording the aforesaid land in his name in the revenue records and the same was rejected vide order dated 09.03.1998 and thereafter, the opposite party no. 3 filed an appeal which too was rejected vide order dated 13.02.2002. After the aforesaid order was passed, opposite party no. 3 again moved a fresh application under Section 34 of the UP Land Revenue Act, wherein, the present petitioner was kept on appearing, but due to COVID-19, he could not appear for about 18 months and

thereafter the opportunity of hearing to the petitioner was closed by the Court below vide order dated 06.06.2022.

Contention of the learned counsel for the petitioner is that the petitioner after 10th February 2020 could not appear before the Court concerned up till 24 August 2021, reason being the COVID-19 was continuing. He added that the delay in proceedings before the courts have already been condoned for COVID period by the Hon'ble Apex Court in its verdict and therefore, findings recorded by the Court below in the order dated 06.06.2022, while not providing the opportunity, goes against the verdict of the Hon'ble Apex Court. He added that there would be no harm, if the petitioner is provided an opportunity to be heard before the Court below.

The learned counsel appearing for the State has opposed the contention aforesaid and submits that the petitioner is adopting delay dallying tactics and he did not appear before the Court concerned up till 24.08.2021 and therefore, the opportunity has rightly been closed as the proceeding under Section 34 is the summary proceedings and thus, no interference is warranted.

Considering the submission of the learned counsel for the parties and after perusal of the material placed on record, it transpires that the land in question was recorded in the name of the present petitioner by virtue of PA-11 and the opposite party no. 3, i.e., Jagdev claimed his right over the property and has moved an application for mutation of the same land in his name by virtue of sale deed which was executed by one Kashi Ram.

When this court examines the aforesaid facts and law it transpires that earlier an application moved by the opposite party no. 3 under Section 34 of the Land Revenue Act was dismissed and thereafter, an appeal was also dismissed. After the dismissal of the aforesaid appeal, the opposite party no. 3 has allegedly moved second application under Section 34 of the Land Revenue Act, and in that proceeding, the present petitioner has been denied an opportunity to be heard.

Further the order dated 06.06.2022 reveals that the petitioner did not appear before the Court below for about one and half years and therefore, the opportunity of hearing was closed though the trial Court has ignored the verdict of the Hon'ble Apex Court so far as the COVID period is concerned, as the Apex Court has condoned the delay for the period of COVID-19.

In view of the aforesaid submission and discussions, the order dated 06.06.2022 and 10.02.2020 passed by the Court below

and the order dated 25.11.2022 passed by the Revisional Court are hereby set-aside.

Matter is remitted back to the Court concerned while opening the opportunity to the petitioner to appear before Court concerned on the next date of hearing and on such appearance, he will be granted 10 days time to file objections and if such objections are filed, the same shall be considered and decided within further period of two weeks. If petitioner does not move the objection within time prescribed, the abovesaid order shall not be available to him.

With the aforesaid observations, the instant petition is **allowed**.

Order Date :- 20.11.2023

Anurag