

Court No. - 18

Case :- WRIT - B No. - 1008 of 2023

Petitioner :- Shivmila

Respondent :- State Of U.P. Thru. Collector, Barabanki And 10 Others

Counsel for Petitioner :- Arshad Siddiqui, Anand Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania, J.

1. Heard.

2. In view of order proposed to be passed, issuance of notice to the private-respondent(s) is hereby dispensed with.

3. By means of this petition, the petitioner has sought the following main relief:

i. To issue a writ, order or direction in the nature of Certiorari, quashing the impugned order dated 30.01.2023 passed by Deputy Director Consolidation, Barabanki (Contained as Annexure No. 1).

ii. To issue a writ, order or direction in the nature of Mandamus, thereby commanding the OP. No.2 to allow the recall application of petitioner dated 05.10.2023 and pass a fresh order after hearing the parties, in the interest of justice.

4. Taking note of the fact that the application with prayer to recall the order dated 30.01.2023 (challenged in this petition) and to restore the case to its original number is pending consideration, on being confronted, learned counsel for the petitioner says that he does not want to press the prayer no. 1 at this stage. With regard to prayer no. 2, learned counsel for the petitioner says that on coming to know about the order dated 30.01.2023 passed in Revision No. 565/2023 (Computerized Case No. 2021530412000172, Sarkar Vs. Akirlurrehman) instituted under Section 48(3) of U.P. Consolidation of Holdings Act, 1953 (in short "Act, 1953"), the petitioner preferred an application for restoration of case on 05.10.2023. He further submitted that the order dated 30.01.2023 was passed without providing any opportunity of hearing to the petitioner. He also stated that if the application for restoration is not decided within the time specified, the petitioner would suffer irreparable loss and injury as the possession of the petitioner would be disturbed in the light of order dated 30.01.2023. Prayer is to direct the opposite party no. 2 to decide the application in issue within the time specified.

5. Learned State counsel submits that he has no objection in case an expedite order is passed.

6. Considering the facts, as indicated above, this Court is of the view that no fruitful purpose will be served in keeping this petition pending. Accordingly, this petition is **disposed of** with a direction to the opposite party no. 2 - Deputy Director Consolidaton, Barabanki to decide the application preferred by the petitioner, most expeditiously after affording full opportunity of hearing to the parties to the litigation and without granting any adjournment to either party preferably within a period of three months from the next date fixed in the case.

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

8. With the aforesaid, the petition is **disposed of**.

Order Date :- 7.11.2023/Mohit Singh/-