

Court No. - 18

Case :- WRIT - C No. - 9743 of 2023

Petitioner :- Ganga Ram Shukla

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Deptt. U.P. Lucknow And 10 Others

Counsel for Petitioner :- Sanjay Prakash Tiwari, Rashmi Singh

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

Hon'ble Saurabh Lavania, J.

1. Heard.

2. The present petition has been filed with the following prayer:-

"I. Issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the order dated 03.08.2023 passed by Opposite Party No. 2/Commissioner Devi Patan Mandal, Gonda in Revision case no. 00091/2008 (Computerised case No. C200808000000091), under section 219 of U.P. Land Revenue Act, 1901 Parasnath and others versus Babadeen and others as contained in Annexure No. 1 to this writ petition.

II. Issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the order dated 23.07.2008 passed by Opposite Party No. 3/Additional Sub Divisional Magistrate, Balrampur in Case No. 19/29/70/30, under section 210 of U.P. Land Revenue Act, 1901, Parasnath and other versus (Badrinarayan) Babadeen and others as contained in Annexure No. 3 to this writ petition.

III. Issue a writ of certiorari or a writ, order or direction in the nature of certiorari to quash the order dated 07.06.2004 passed by Opposite Party No. 4/Tehsildar, Balrampur in Case No. 928/2/2/6/8/11/15/36/23/394/273/663, under section 34 of U.P. Land Revenue Act, Srimaan Narayan and others versus Lakhraji and others, situated at village Baraipur, Pargana, Tehsil and District Balrampur as contained in Annexure No. 4 to this writ petition.

IV. Issue a writ of mandamus or a writ order or direction in the nature of mandamus commanding the Opposite Party No. 2 to not to implement the order dated 03.08.2023, passed by Opposite Party No. 2/Commissioner Devi Patan Mandal, Gonda passed in Revision case no. 00091/2008 (Computerised case No. C200808000000091), under section 219 of U.P. Land Revenue Act, 1901 Parasnath and others versus Babadeen and others.

V. Issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding the Opposite Party No.3 not to implement the order dated 23.07.2008 passed by Opposite Party No. 3/Additional Sub Divisional Magistrate, Balrampur passed in Case No. 19/29/70/30, under section 210 of U.P. Land Revenue Act, 1901, Parasnath and other versus (Badrinarayan) Babadeen and others.

VI. Issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding the Opposite Party No. 4 not to implement the order dated 07.06.2004 passed by Opposite Party No. 4/Tehsildar, Balrampur in Case No. 928/2/2/6/8/11/15/36/23/394/273/663, under section 34 of U.P. Land Revenue Act, Srimaan Narayan and others versus Lakhraji and others, situated at village Baraipur, Pargana, Tehsil and District Balrampur.

VII. Issue a writ of mandamus or a writ, order or direction in the nature of mandamus commanding the Opposite Parties not to disturb/ create third party interest over the peaceful

possession of the land Khata No. 361, situated at village Baraipur, Pargana, Tehsil and District Balrampur."

3. By means of the present petition, the petitioner has challenged the order(s) dated 03.08.2023, 23.07.2008 and 07.06.2004 passed in mutation proceedings.

4. It appears from the record including the impugned orders that the revenue courts after considering the material available on record including the statement of Lakhraji (tenure holder) made in Case No.142 decided on 19.10.1968 observed that Lakhraji was having five sons and therefore claim alleging that Lakhraji was having only two sons namely, Shriman Narayan (father of the petitioner) and Parasnath is not sustainable.

5. Further, it is trite law that mutation proceedings are summary in nature and they do not decide any right or title between the parties; rather they are drawn only for fiscal purposes. Furthermore, the order passed in mutation proceedings are always subject to declaration of rights which may be sought by the parties concerned by instituting a regular suit.

6. Section 40A of the U.P. Land Revenue Act, 1901, (now repealed) as also Section 39 of U.P. Revenue Code, 2006, which is applicable w.e.f. 11.02.2016, make it clear that no mutation order shall debar any person from establishing his rights in the land by means of a regular suit. Mutation of a property in revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue. The mutation proceedings do not adjudicate the rights of the parties and orders passed in mutation proceedings are always subject to adjudication by competent Court.

7. Considering the dispute between the parties, as appears from record, as also the law related to mutation proceeding and that the issue pertaining to claim over the property, in issue, can be adjudicated, as per law, by the competent court of jurisdiction, I am of the view that in the instant case, proper adjudication regarding claim of the respective parties is required. Accordingly, I am not inclined to entertain this petition, which is disposed of with liberty to the

petitioners to institute a regular suit, if required, seeking declaration of their rights.

8. In regard to interim relief, it is open for the petitioners to seek interim relief before the Court/Authority concerned.

9. It is further provided that if the suit is filed and the fact/details of the suit is brought to the notice of the concerned revenue authority, then the said revenue authority shall indicate the details of suit in the revenue record. It is for the reason that the entry of details of the suit in revenue records would avoid further litigation, which can be on account of transferring the property in issue or by creating charge over the same.

Order Date :- 7.11.2023/Raj