

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 5801 of 2023

Petitioner :- Lal Pratap Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue, Lko.
And Others

Counsel for Petitioner :- Prabhat Kumar Ojha, Prabhat Kumar
Mishra

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

Hon'ble Shree Prakash Singh, J.

1. Notice to opposite party no. 4 is hereby dispensed with.
2. Heard Sri Prabhat Kumar Mishra, learned counsel for the petitioner, Sri Hemant Pandey, learned Standing counsel for the State-respondent, Sri Ambika Gupta, holding brief of Sri Pankaj Gupta, learned counsel for Gram Sabha.
3. By means of the instant application, the petitioner has assailed the order dated 22.05.2023 passed by Naib Tehsildar, Laxmanpur, Tehsil- Lalganj, District- Pratapgarh.
4. The contention of learned counsel for the petitioner is that on 20.10.2011, Rajmani Singh executed the sale deed in favour of the petitioner with respect to gata no. 579 bearing area of 0.201 hectares and for other gatas and thereafter, Rajmani Singh died and on 15.11.2011, thereafter wife of Rajmani Singh, namely, Kusum Devi moved an objection against the sale deed. During the aforesaid proceedings, Kusum Devi also died and the brother of the opposite party no. 4 moved an objection against the sale deed. He further added that on 29.03.2022, the petitioner filed a suit before the opposite party no. 2 under section 34 of UP Revenue Code 2006 (hereinafter, referred to as Code 2006) which was decided in favour of the petitioner on 24.05.2022, thereafter, the opposite party no. 4 moved an objection vide the objection dated 16.01.2023 and Naib Tehsildar passed the impugned order on 22.05.2023, whereby the operation of the order dated 24.05.2022 was ex-parte stayed. He further submits that the objection was filed after delay of eight months without any application for condonation of delay but without calling any objection from the petitioner and without condoning the delay, the notice was issued and the interim order has been passed.
5. The contention of learned counsel for the petitioner is that the

court below, ignoring the settled proposition of law and without providing opportunity of hearing to the petitioner on application for condonation of delay, proceeded in the matter and passed the order. He also added that without assigning any reason, the order dated 24.05.2022 has been stayed.

6. Concluding his arguments, as per the provision of rule 494 of the UP Revenue Code Rules 'no stay or interim order before condonation of delay can be passed in an appeal, revision or application for review, if presented after the expiry period limitation specified.' therefore, submission is that the order dated 22.05.2022 may be set aside.

7. Learned counsel appearing for the State though, has opposed the contention aforesaid but he could not reply that how the notices have been issued without condoning the delay.

8. Considering the aforesaid facts and circumstances and the settled proposition of law, the **order dated 22.05.2023 is hereby set aside.**

9. The matter is transmitted back to the court of Naib Tehsildar, Laxmanpur, Tehsil- Lalganj, District- Pratapgarh to pass a fresh order, in accordance with law, affording opportunity of hearing to all concerned.

10. With the aforesaid observations, instant petition is **disposed of.**

Order Date :- 20.11.2023

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