

Court No. - 18

Case :- WRIT - B No. - 1036 of 2023

Petitioner :- Ramphal And Others

Respondent :- District Magistrate, Ambedkarnagar And Others

Counsel for Petitioner :- Pradeep Kumar Singh Vats, Raghaw Ram Upadhyay

Counsel for Respondent :- C.S.C., Mohan Singh

Hon'ble Shree Prakash Singh, J.

Heard Sri Pradeep Kumar Singh and Sri R.R. Upadhyay, learned counsels for the petitioners, Sri Hemant Pandey, learned Standing Counsel for the State, Sri Mohan Singh, learned Counsel for the Gaon Sabha.

By means of instant writ petition, the petitioners have assailed the impugned order dated 17-10-2023 passed by the opposite party no. 2.

The factual matrix of the case is that the land is said to be given to the petitioners by way of 'Izazatnama' of the Jamidars, which was a 'Baghbhoomi'. Thereafter, behind the back of the petitioners, it was leased out in favour of one Ram Ujagar and thereafter, a suit for cancellation was moved, which was allowed. On 30-04-1969, a suit under section 229-B of the U.P.Z.A. and L.R. Act was filed and thereafter, on 15-06-1970, the Consolidation Officer decided the objection under section 9-A (2) of the U.P. Consolidation of Holdings Act against the petitioners, whereafter, the petitioners moved an appeal before the Settlement Officer of Consolidation bearing appeal no. 772, which was decided on 31-10-1972 in favour of the petitioners. Thereafter, the SOC, on an application dated 14-03-2023, moved by Gaon Sabha, recalled the order dated 31-10-1972 passed by the Settlement Officer of Consolidation.

Against the aforesaid order, a revision was preferred on 16-05-2023, which is pending consideration, though the interim relief application, which was pressed by the petitioners in the revision, has been rejected.

Contention of learned counsel for the petitioners is

that the matter was decided 41 years back i.e. on 31-10-1972, in favour of the petitioners and on an application moved on 14-03-2023 by the Gaon Sabha, the order dated 31-10-1972, has been recalled, without issuing any notice or affording any of opportunity of hearing to the petitioners. He submits that this fact has been agitated before the revisional court, but, the revisional court without looking into the balance of convenience, has rejected the interim relief application, filed with the revision.

Adding his arguments, he submits that as per the settled proposition of law, the Settlement Officer of Consolidation, could not have recalled it's order without issuance of notice and affording opportunity of hearing to the parties and once, this issue was raised before the revisional court, the revisional court, ignored the same at the stage of granting of interim relief. He further added that State and Gaon Sabha are making hindrance over the peaceful possession of the land in question, which is in the possession of the petitioners, since last more than 50 years. Therefore, submission is that revisional court may be directed to reconsider this issue, at the interim stage.

On the other hand, learned Standing Counsel appearing for the State has opposed the contentions aforesaid and submits that after the order dated 31-10-1972 and without following the procedure prescribed under Rule 109-A of Rules 1954, the land in question is recorded in the names of the petitioners, which is not permissible under law. He further added that so far as the provisions of Section 11 C of the Act, 1953, is concerned, the objection of the Gaon Sabha or State is not required if the land belongs to State or Gaon Sabha and therefore, the Settlement Officer of Consolidation has rightly passed the order without hearing the petitioners. He also added that the petitioners are still not in position to substantiate their arguments with any of the document that as to how the land in question belongs to them from the initial stage. Further submitted that forgery has been committed for getting the land in question.

Learned counsel appearing for the Gaon Sabha has also supported the version of the learned Standing Counsel.

Considering the submissions of learned counsel for the parties and after perusal of material placed on record, it transpires that the Settlement Officer of Consolidation has passed the order on 31-10-1972 in favour of the petitioners and the land in question was recorded in the names of the petitioners and thereafter, an application was moved by the Gaon Sabha on 14-03-2023, whereafter, the order dated 31-10-1972 was recalled, without giving any opportunity of hearing to the petitioners, who are the recorded tenure holders since last more than 50 years.

This court has also noticed the fact that the revisional court without considering the balance of convenience in the matter, has rejected the interim relief application of the petitioners, which is also against the settled proposition of law.

In view of the abovementioned discussions, the revisional authority is directed to decide the revision within a period of three months from the date of this order, after affording opportunity of hearing to all the parties concerned, in accordance with law.

It is also clarified that the aforesaid order is subject to the cooperation of the petitioners in the matter.

The parties are directed to maintain status-quo over the land in question, as exists today, till final decision of the revisional court.

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

Order Date :- 22.11.2023

AKS