

Court No. - 18

Case :- WRIT - B No. - 1033 of 2023

Petitioner :- Ramesh Kumar And Others

Respondent :- Addl. District Magistrate (F/R)/ Deputy Director Of Consolidation, Raebareli And Others

Counsel for Petitioner :- Aditya Kumar Tiwari

Counsel for Respondent :- C.S.C., Dilip Kumar Pandey

Hon'ble Shree Prakash Singh, J.

Heard Sri Aditya Kumar Tiwari, learned counsel for the petitioners, Sri Hemant Pandey, learned Standing Counsel for the State and Sri Dilip Kumar Pandey, learned counsel for Gaon Sabha.

By means of the instant application, the petitioners have assailed the order dated 25.10.2023 passed by the Additional District Magistrate (F&R)/Deputy Director of Consolidation, Raebareli, U/S 48(1) U.P. CH. Act in Revision No. 0253 of 2023.

The counsel appearing for the petitioner submits that in basic year entry of gata no. 201, measuring area 0.759 hectare, was recorded in the name of the petitioners and that is a large gata and thereafter, the Assistant Consolidation Officer made division of gata no. 201 in 23 parts, without making proper verification regarding possession of respective co-sharers, on spot. He added that Assistant Consolidation Officer wrongly proposed, the entire holding of petitioners, over gata no. 201/19. He further submits that being aggrieved, the petitioners filed objections under Section 9A(2) of UP Consolidation of Holdings Act 1953 before the Consolidation Officer which was registered as Case No. 215 and the same was decided. Thereafter, an appeal was preferred by the opposite party no. 2 to 5 which was rejected by the Settlement Officer (Consolidation) on 17.01.2023, and against the order passed by the SOC, a revision was preferred, whereafter, the order was passed by the Revisional Court on 25.10.2023, which is under challenge before this Court.

Contention of the learned counsel for the petitioners is that in fact, the land which is said to be a Banjar land, was in the area of the gata no. 201/19, which was being cultivated by the petitioners. He added that as per the report of the Consolidation Officer dated 30.06.2022, it transpires that the said banjar land

was left and on its place, the other land has been transferred. He added that in fact the Consolidation Officer as well as the Settlement Officer Consolidation has rightly decided the issue and there is no ambiguity or erroneous in the same. Though, the opposite party no. 1 has dismissed the revision, but the matter was remitted back to the Consolidation Officer for providing opportunity of hearing to the Gaon Sabha while looking into the provision of Section 11(1) of the UP Consolidation of Holdings Act, 1953. He submits that in fact, the chak has rightly been allotted which is very clear as per the report of the Consolidation Officer and there is no need to remit back the matter to the Consolidation Officer to decide afresh and thus, the order dated 25.10.2023 is erroneous and the same may be set-aside.

On the other hand, the learned counsel appearing for the State and Gaon Sabha have vehemently opposed the contentions aforesaid and submits that though the Gaon Sabha was arrayed as a party in the proceedings before the Consolidation Court, but the notice was not issued to the Gaon Sabha as the Gaon Sabha is an essential party to be heard. He further added that in fact, the area 0.364 hectare of Banjar land is involved, so far as the transfer of land is concerned and thus, without hearing the Gaon Sabha no orders could have been passed and therefore, the Revisional Court has rightly remitted back the matter to the Consolidation Officer to decide the matter afresh.

Having heard the learned counsel for the parties and after perusal of the matter placed on record, it reveals that matter was decided by the Consolidation Officer as well as the Settlement Officer Consolidation in favour of the petitioners and thereafter a revision was moved which was dismissed while transmitting back the matter to the Consolidation Officer, to decide the matter afresh after hearing Gaon Sabha and the concerned parties.

When this Court examines the order dated 25.10.2023 passed by the opposite party no. 1, it transpires that the opposite party no. 1 has rightly considered the issue that the area of land, i.e., 0.364 hectare land was involved in the issue before the Consolidation Officer as well as the Settlement Officer Consolidation but even after the Gaon Sabha was arrayed as a party, no notice was issued. In fact an error is apparent on record, in the proceedings before the Consolidation Officer and the same was also ignored by the SOC.

Resultantly, there seems to be no merit in the instant petition, and the same is hereby **dismissed**.

However it is provided that the petitioner may appear before the Consolidation Officer in compliance of the order dated 25.10.2023 and Consolidation Officer is directed to decide the matter within a period of three months from the date of this order.

It is clarified that the aforesaid order is subject to the cooperation of the petitioner before the Consolidation Officer.

It is further clarified that the observations made herein above, would have no bearing on the merits of the case, before the Consolidation Officer.

Order Date :- 20.11.2023

Anurag