

Court No. - 6

Case :- WRIT - B No. - 1054 of 2023

Petitioner :- Chandra Pratap Singh And Others

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

Counsel for Petitioner :- Dhirendra Kr. Dubey, Kapil Muni Dubey

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

Hon'ble Rajnish Kumar, J.

1. Heard, Shri Dhirendra Kumar Dubey, learned counsel for the petitioners, Shri Upendra Singh, learned Additional Chief Standing Counsel for opposite parties no.1 to 5 and Shri Mohan Singh, learned counsel for the opposite party no.6/Gaon Sabha.

2. This petition has been filed challenging order dated 01.04.2023 passed in Revision No.1288 filed by the petitioners, by means of which the application for interim relief filed alongwith the revision has been dismissed.

3. Learned counsel for the petitioners submits that the order dated 07.06.1978, passed in favour of the petitioners on an application of the petitioners restoring as basic year entry, has been ignored on an application for recall of the exparte order dated 06.03.1978 filed by the State treating it to be an appeal by means of order dated 11.11.2022 without affording any opportunity to the petitioners, which could not have been done. The petitioners have preferred a revision alongwith an application for interim relief, but without considering it the application for interim relief has been rejected by means of order dated 01.04.2023, therefore the petitioners are constrained to approach this court challenging the order dated 01.04.2023. He, relying on an order dated 22.11.2023 passed by a Co-ordinate Bench of this court in **Writ-B No.1036 of 2023;**

Ramphal and others Versus District Magistrate, Ambedkarnagar and others, submits that the revisional court without considering the balance of convenience in the matter has rejected the interim relief application of the petitioners, therefore the revision may be directed to be decided within some stipulated period and till then the status quo as it exists today may be directed to be maintained by the parties.

4. Per contra, learned Additional Chief Standing Counsel submits that the order dated 06.03.1978 passed in favour of the predecessor-in-interest of the petitioners was exparte order, therefore the application for recall of the State has rightly been allowed and the double entry made in favour of the predecessor-in-interest of the petitioners Smt.Kamla Devi wife of Kalika and Ranjit Singh after deleting the entry of Talab to the extent of 3-18-0, which was deleted only from the area of the predecessor-in-interest of the petitioners has been corrected, therefore there is no illegality or infirmity in the impugned order in rejecting the application for interim relief. So far as the arguments advanced by learned counsel for the petitioners that the order dated 11.11.2022 is an exparte order, submission of learned Additional Chief Standing Counsel is that the said order has not been challenged before this court and the application for interim relief has been rejected considering the merit of the application and the petitioners have failed to show that the land of Talab has not been recorded in the name of the predecessor-in-interest of the petitioners, the benefit of which is being enjoyed by the petitioners, therefore there is no illegality or error in the impugned order.

5. Learned counsel for the Gaon Sabha also reiterates the submissions of learned Additional Chief Standing Counsel and submits that the order passed by the Co-ordinate Bench in the

case of **Ramphal and others Versus District Magistrate, Ambedkar Nagar and others (Supra)** is not applicable on the facts and circumstances of the present case because the petitioners have failed to make out even the prima facie case.

6. Having considered the submissions of learned counsel for the parties, I have perused the records.

7. This petition has been filed challenging the order dated 01.04.2023 passed on the application for interim relief filed alongwith the Revision No.1288 by the petitioners, by means of which the application for interim relief has been rejected considering the pleadings and the arguments of the parties and recording the reasons. As recorded by the revisional authority an area of 3-18-0 recorded as Talab was deleted, which was recorded in the name of the predecessor-in-interest of the petitioners and one Ranjit Singh. However it appears that during the consolidation proceedings the said area was directed to be deleted from the area of predecessor-in-interest of the petitioners only and the area of Ranjit Singh was maintained. However by means of the order dated 06.03.1978, though appears to be an exparte order, the said entry was directed to be corrected by deleting both i.e. the predecessor in interest of the petitioners as well as Ranjit Singh. However by means of an ex-parte order dated 07.06.1978 passed in the same appeal, on an application moved by the predecessor-in-interest of the petitioners, a copy of which has been placed on record as Annexure No.7 to the petition, the basic year entry in favour of predecessor-in-interest of the petitioners was directed to be maintained without affording any opportunity to the parties and assigning any reason.

8. On an application moved by the State for recall of the order dated 06.03.1978 with the application for condonation of delay,

a report was called and after considering the same the order dated 11.11.2022 was passed by the Settlement Officer Consolidation, Ambedkar Nagar recalling the said order and thereafter allowing the appeal partly. The said order has been challenged in the revision filed by the petitioners alongwith an application for interim relief, which has been rejected considering the grounds on merit of the application recording that the land of Talab has been recorded in the name of the petitioners. Learned counsel for the petitioners failed to point out or show from any record that the land of Talab was not recorded in the name of the predecessor-in-interest of the petitioners, which has been purchased by the petitioners. Therefore there is no illegality or infirmity in the impugned order because the petitioners have failed to make out even a prima facie case for grant of interim order. Therefore the petitioners are not entitled for any benefit of the order passed by the Co-ordinate Bench as relied by learned counsel for the petitioners.

9. As settled by the Hon'ble Supreme Court, in the case of **Hinch Lal Tiwari Versus Kamla Devi and others; 2001 (6) SCC 496**, the land of Talab cannot be recorded in the name of anybody else and the same can also not be allotted to anybody else and if it has been done so, it is to be restored.

10. The petitioners have also not challenged the order dated 11.11.2022 before this court, therefore, the other grounds raised in regard to the same can be considered by the revisional authority in the revision filed by the petitioners, while deciding on merit, which shall be decided on its own merits without being influenced by any observation made in this order.

11. In view of above and considering the overall facts and circumstances of the case this court is of the view that there is

no illegality of error in the impugned order, which may call for any interference by this court.

12. The writ petition is, accordingly, **dismissed**. No order as to costs.

13. At this stage learned counsel for the petitioners submits that the revision may be directed to be decided within some short stipulated period, to which there is no objection by the other side.

14. In view of above, it is provided that the petitioners may move appropriate application for expeditious disposal of revision before the revisional authority. In case any such application is moved within a period of one week from today, the same shall be considered by the revisional authority within a period of two weeks thereafter and pass appropriate order thereon and if there is no impediment, decide the revision expeditiously in a time bound manner in accordance with law.

(Rajnish Kumar,J.)

Order Date :- 28.11.2023
Banswar