

Court No. - 18

Case :- WRIT - C No. - 10387 of 2023

Petitioner :- Madhulata Singh

Respondent :- Addl. Commissioner (Administration), Lucknow Region, Lucknow And Others

Counsel for Petitioner :- S.K. Mishra Nagraha, Vashu Deo Mishra

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

Hon'ble Shree Prakash Singh, J.

Heard Shri Vashu Deo Mishra, learned counsel for the petitioner, Shri Hemant Pandey, learned Standing Counsel for the State and Shri Dilip Kumar Pandey, learned Standing Counsel for the Gaon Sabha.

By means of the instant petition, the petitioner has assailed the order dated 4th March, 2021 and 21st March, 2023 passed by learned Additional Commissioner (Administration), Lucknow Region, Lucknow.

Contention of learned counsel for the petitioner is that the revisional court without going into merits of the case; has dismissed the revision as well as review petition.

After the aforesaid argument, learned counsel for the petitioner submits that the interest of justice would be sub-served if this Hon'ble may be pleased to permit the petitioner to move a regular suit under Section 144 of U.P. Revenue Code, 2006 before the authority concerned and the authority concerned may be directed to decide the same within a stipulated period of time, as may be fixed by this court, without there being prejudiced to the orders dated 4th March, 2021 and 21st March, 2023 and order dated 10th May, 2019 passed by the Sub-Divisional Officer.

In support of his contentions, he has placed reliance on the judgement of this court reported in **2022 (40) LCD 1322 (Smt. Kalawati Vs. Board of Revenue and others)** and has referred the paragraph 44 of the aforesaid judgement, which is quoted herein-under:-

44. At this stage, learned counsel for the petitioner seeks to urge that the findings returned in the mutation proceedings may prejudice the petitioner's case in a suit pertaining to claim of title. The aforesaid apprehension is wholly without basis since findings returned by mutation courts in summary proceedings are for the limited purpose of correction of revenue records and do not have any presumptive value on a question of title which is required to be adjudicated by the court of competent

jurisdiction without being influenced by any finding returned in mutation proceedings. In this regard the provision contained under Section 39 of the Code has already been taken note of wherein it is provided in unequivocal terms that order passed under Section 35 would not debar any person from establishing his rights to the land by means of a suit under Section 144."

Learned counsel appearing for the State has no objection to the contentions aforesaid.

In view of the aforesaid innocuous prayer, the petitioner is permitted to move a regular suit under Section 144 of U.P. Revenue Code, 2006 before the authority concerned.

It is further provided that if such suit is filed by the petitioner, the observations made in the impugned orders dated 04.03.2021 and 21.03.2023 would have no bearing on the merits of the case before the court concerned.

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

Order Date :- 8.12.2023

Ashutosh Pandey