

Court No. - 18

Case :- MATTERS UNDER ARTICLE 227 No. - 6023 of 2023

Petitioner :- Kallu Khan

Respondent :- Addl. Commissioner Judicial Second, Lucknow Division, Lucknow And Others

Counsel for Petitioner :- Mohd Kamal Khan

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

Hon'ble Shree Prakash Singh, J.

1. Heard Mohd Kamal Khan, learned counsel for the petitioner, Sri Dilip Kumar Pandey, learned counsel for Gaon Sabha, Sri Hemant Pandey, learned Standing counsel for the State and perused the record.

2. Instant petitioner has been filed with following reliefs:-

(i) Issue an order or direction thereby commanding and directing the respondent no.1 to expedite the proceedings and decide the stay application filed by the petitioner in Revision U/S 210 U.P. Revenue Code, 2006 registered as Case No. 3001 of 2022, Kallu Khan Versus State of U.P. and others within the time bound period as may be deem fit & fixed by this Hon'ble Court.

(ii) Issue an order or direction thereby commanding and restraining the opposite party no.3 from taking any coercive action for recovery of the amount in pursuant to the R.C. Form-36 dated 06.11.2023, during the pendency of the revision before the respondent no.1.

(iii) Pass any other suitable order or direction which this Hon'ble Court may deem fit, just and proper in the interest of justice.

(iiii) Allow the petition with costs.

3. Learned counsel appearing for the petitioner submits that the petitioner is a poor farmer and he has constructed his house over his own land, but on a complaint made by stranger, the Tehsildar passed an exparte order which thereafter, was assailed in an appeal and once the appellate authority passed the order against the petitioner then revision is preferred. He added that

during the pendency of the revision, the RC has been issued amounting Rs.1,40,400/- by the Tehsildar, Moammadi District-Kheri and if, the same is given effect to, the purpose of filing the revision would frustrate. He added that up till the revision is decided the effect and operation of the RC may be stayed.

4. Learned Standing counsel for the State as well as counsel for the Gaon Sabh have vehemently opposed the contentions aforesaid and submits that orders of Tehsildar as well as the appellate authority have rightly been passed after calling for report and thus, no interference is warranted in the instant matter.

5. Considering the submissions of learned counsel for the parties and after perusal of material placed on record, it transpires that the Tehsildar Moammadi District- Kheri passed an exparte order against the present petitioner which was assailed by the petitioner with the contention that the order passed by the Tehsildar is exparte and therefore, he may be heard, but the same was rejected in a cursory manner and against the order passed by the appellate authority the same was rejected and which is pending before the revisional court

6. When this Court examines the aforesaid facts and law applicable thereof, it transpires that the revision is pending before the revisional court for consideration whereas, RC has been issued against the petitioner. The purpose of instituting the revision would frustrate, if the Recovery Citation is executed.

7. In view of the aforesaid submissions and discussions, the effect and operation of the RC dated 06.11.2023 is hereby stayed, till the final outcome of the revision.

8. The revisional authority is directed to conclude the revision

no. No. 3001 of 2022, (Kallu Khan Versus State of U.P. and others), within a period of three months, subject to cooperation of the petitioner.

9. It is clarified that if the petitioner would seek unnecessary adjournments in the proceedings before the revisional court, the benefit of stay order would not remain in force.

10. Learned counsel appearing for the petitioner submits that he will not seek any unnecessary adjournment in the case before the revisional court.

11. In view of the above-said, the instant petition is **allowed, partly.**

Order Date :- 30.11.2023
Mayank