

Court No. - 18

Case :- WRIT - C No. - 10468 of 2023

Petitioner :- Man Singh

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

Counsel for Petitioner :- Ajai Kumar Shukla, Monika Shukla, Vikas Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Shree Prakash Singh, J.

1. Heard Sri Ajai Kumar Shukla, learned counsel for the petitioner, Sri Praful Kumar Yadav, learned additional chief standing counsel for the State.

2. By means of the instant petition, the petitioner has assailed the order dated 08.11.2023 passed by the Commissioner Division, Prayagraj, Prayagraj in suit no. 1643 of 2023 Man Singh versus State of U.P. and others under section 210 of U.P. Revenue Code, 2006 and the order dated 29.09.2023 passed by the Additional District Magistrate-Ist, Pratapgarh.

3. The contention of learned counsel for the petitioner is that at the very inception dispute arose regarding the correction of map and the petitioner moved an application for correction of map on 23.07.2016 whereafter, the order was passed on 12.09.2016 in favour of the petitioner and being aggrieved, the Gaon Sabha concerned moved a recall application on 01.12.2016 wherein, the order dated 12.09.2016 was stayed on the same day, whereafter, the petitioner moved the revision before the Additional Commissioner-1st, Prayagraj, which was dismissed vide the order dated 16.09.2021 and being aggrieved the petitioner moved to this Court while instituting a Writ Petition No. 26383 of 2021 wherein, this court has passed the order on 12.11.2021, the operative portion of the order is quoted herein under:-

"As such, the impugned orders are not sustainable and are

quashed by issuing a writ in the nature of certiorari at the admission stage itself. However in view of the submissions advanced by learned counsel for parties, particularly that the disputed property pertains to Goan Sabha, liberty is granted to Goan Sabha to file an application seeking condonation of delay in filing the if not already done. Opposite party no.3 i.e. Additional District Magistrate, Pratapgarh is directed to consider and decide the aspect of condonation of delay in filing the recall application prior to passing any orders pertaining to grant or rejection of interim relief."

4. After the aforesaid order was passed, the matter proceeded wherein, the Court of Additional District Magistrate-Ist has passed the order on 29.09.2023 while fixing a date for 18.10.2023 for filing of objections by the private respondents, against the aforesaid order, the petitioner has moved the revision under section 210 of Code, 2006 before the Commissioner, Division-Prayagraj, wherein, the revision was dismissed vide order dated 08.11.2023 and the Court of Additional District Magistrate-Ist was directed to decide the matter while affording opportunity of hearing to all the parties concerned.

5. He contended that in fact the proceeding before the Additional Commissioner is not running in proper manner and even after the application is moved by the petitioner in the aforesaid proceeding, the same is not being considered. He also added that he has moved an application for correction of Revenue Records on 02.05.2002 which is also pending and the petitioner had also moved the writ petition bearing Writ C No. 6759 of 2023 wherein, the Division Bench of this Court has passed the order while directing the Additional District Magistrate (Finance & Revenue) to proceed and decide the application, in accordance with law, by reasoned and speaking order. He added that the impugned orders are liable to be set aside as those are against the settled proposition of law.

6. Learned standing counsel for the State has vehemently opposed the contentions aforesaid and submits that in fact the land in question which was recorded in the name of the petitioner is of Banjar Khata and thereafter, when State moved a recall application, the order was passed while staying the order dated 12.09.2016 passed in favour of the petitioner which was an *exparte* order. He also added that in fact the Additional District Magistrate-Ist is proceeding in the matter as per the direction of this Court dated 12.11.2021 passed in Writ Petition Misc. Single No. 2638 of 2021 and as per the order annexed by the petitioner, it is evident that the court concerned has passed the order on 29.09.2023 while fixing a date on 18.10.2023 inviting the objections from the respondents and thus, there is no any erroneousousness in the order passed. He also added that the revisional court has rightly passed the order dated 08.11.2023 while dismissing the revision and upholding the order passed by the Additional District Magistrate, therefore, submission is that no interference is warranted.

7. Having heard learned counsel for the parties and after perusal of material placed on record, it transpires that *exparte* order was passed on 01.12.2016 in favour of the petitioner while the land in question was recorded in favour of the petitioner and thereafter, the recall application was filed by Gram Sabha wherein, the order was passed on 01.12.2016 and the order dated 12.09.2016 was stayed, whereafter, revision was filed, which was also dismissed and thereafter, the petitioner moved a writ petition which was allowed in favour of the petitioner directing the Additional District Magistrate-Ist to decide the matter, in accordance with law after affording the opportunity of hearing to all the parties.

8. When this Court examines the order passed by the revisional

court dated 08.11.2023, it transpires that in fact the Additional District Magistrate-Ist proceeded in compliance of the order passed by the Writ Court and as the matter was with respect to the fact that the order dated 01.12.2016 is also an exparte order while staying the effect and operation of the order dated 12.09.2016, the Additional District Magistrate-1st has afforded opportunity of hearing to all the the private respondents while fixing a date on 18.10.2023. Further the aforesaid order was assailed though, the revisional court did not find any erroneoususness in the order dated 29.09.2023 and therefore, the same was dismissed and the order passed by Additional District Magistrate-Ist was upheld.

9. This Court has noticed the fact that order impugned passed by the Additional District Magistrate-Ist, the right of any of the parties has not been determined but only the Court below was directed to affording opportunity of hearing to the parties concerned and decide the matter at earliest and thus, there seems to be no unlawfulness, erroneoususness or ambiguity in the order dated 29.09.2023 and the order dated 08.11.2023. Consequently, this Court finds no merit in the instant petition. Thus, this petition lacks of merit and is hereby **dismissed**.

10. No order as to costs.

11. It is open for the petitioner to file objection, if any, before the Additional District Magistrate-Ist, Pratapgarh.

Order Date :- 5.12.2023
Mayank