

Court No. - 18

Case :- WRIT - B No. - 1100 of 2023

Petitioner :- Gyanendra Kumar

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

Counsel for Petitioner :- Yogendra Nath Yadav, Manjari Singh, Rupendra Kumar Yadav, Saurabh Yadav, Vikrant Prakash

Counsel for Respondent :- C.S.C., Pankaj Gupta

Hon'ble Shree Prakash Singh, J.

Heard Sri Saurabh Yadav, learned counsel for the petitioner, Sri Badrish Tripathi, learned Additional Chief Standing Counsel for the State, Sri Tushar Gupta, Advocate, holding brief of Sri Pankaj Gupta, learned counsel for the Gaon Sabha and perused the material placed on record.

By means of instant petition, the petitioner has assailed the order dated 31-10-2023 passed by the Board of Revenue, U.P., Lucknow in Case No. TA/2929/2023/Kanpur Nagar, Computerized Case No. R20230341002929 tilted as 'Sri Virat Shakti Land Developers Limited Sri Vs. Gyanendra Kumar' under section 212 of the U.P. Revenue Code, 2006.

Learned counsel appearing for the petitioner submits that the Board of Revenue, U.P., Lucknow, without affording any opportunity of hearing to the petitioner, has passed the order on 31-10-2023 while admitting the transfer application of the opposite party no. 7 and allowed the same and the matter has been transferred from the court of Naib Tehsildar, Pali Tehsil Kanpur Sadar, district-Kanpur Nagar to Naib Tehsildar, Tehsil-Bilahur, district-Kanpur Nagar. He added that the order dated 31-10-2023 has been passed against the settled proposition of law as no opportunity of hearing was afforded to the petitioner while passing the order abovesaid. He next added that an adverse finding has been recorded but no opportunity of hearing has been afforded, therefore, submission is that the order dated 31-10-2023, in these circumstances, is not in consonance with the settled proposition of law and therefore, the same is liable to be set aside.

On the other hand, learned Additional Chief Standing Counsel appearing for the State and the learned Counsel for the Gaon Sabha, though, have vehemently opposed the contentions aforesaid, but, they could not rebut the contention, so far as the opportunity of hearing was required to be afforded to the petitioner.

Having heard learned counsels for the parties and after perusal of material placed on record, it transpires that on the transfer application of opposite party no. 7, the Board of Revenue, U.P., Lucknow, without affording opportunity of hearing to the petitioner, passed the order on 31-10-2023, which, in considered opinion of this court, is erroneous. Thus, the order dated 31-10-2023 passed by the Board of Revenue, U.P., Lucknow in in Case No. TA/2929/2023/Kanpur Nagar, Computerized Case No. R 20230341002929(Sri Virat Shakti Land Developers Limited Sri Vs. Gyanendra Kumar' under section 212 of the U.P. Revenue Code, 2006, is hereby set aside.

The matter is transmitted back to the Board of Revenue concerned to decide the Case No. TA/2929/2023/Kanpur Nagar, Computerized Case No. R 20230341002929(Sri Virat Shakti Land Developers Limited Sri Vs. Gyanendra Kumar' under section 212 of the U.P. Revenue Code, 2006, afresh after affording the opportunity of hearing to all the parties concerned within a period of 90 days from the date of this order.

This order shall be subject to cooperation of the petitioner.

No unnecessary adjournment shall be granted to either of the parties.

With the aforesaid observations, the instant petition is **allowed**.

Order Date :- 11.12.2023

AKS