

Court No. - 6

Case :- WRIT - B No. - 1102 of 2023

Petitioner :- Vijay Bahadur Yadav

Respondent :- State Of U.P. Thru. Consolidation
Commissioner, Lucknow And Others

Counsel for Petitioner :- Vinod Kumar Singh, Ram Dheeraj

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

Hon'ble Rajnish Kumar, J.

1. Shri Ram Dheeraj, learned counsel for the petitioner submits that the impugned order dated 27.07.2023 has been passed without opportunity of hearing to the petitioner, whereas it was required to be given in compliance of the order dated 20.09.2022 passed in Writ-B No.875 of 2022. The date was fixed on 19.06.2023, when it was adjourned for 23.06.2023 and on account of illness the petitioner had sent an application for adjournment on ground of illness. A copy of which has been placed on record as annexure no.11, at page no.107 to the petition.

2. Perusal of the application indicates that it has been sent through speed post from Prayagraj High Court's post office on 23.06.2023 at 12:44 PM, whereas the petitioner is resident of Gram- Barsara, Tehsil- Badlapur, District- Jaunpur and the application is dated 22.06.2023. The application has been addressed to the Consolidation Commissioner, U.P., Lucknow, therefore, if the case was fixed on 23.06.2023 it could not have reached. Even otherwise as per the impugned order dated 27.07.2023, the brother of the petitioner Shri Jung Bahadur had appeared for hearing on the date fixed in the matter and argued, therefore it appears that only to make out a case, since the hearing has already taken place, of not affording opportunity of

hearing, the aforesaid application for adjournment has been sent on 23.06.2023 through speed post from the post office at Prayagraj High Court at 12:44 PM.

3. As per impugned order, the said order has been passed after hearing the brother of the petitioner on behalf of the petitioner, who had appeared and argued, therefore it is apparent that the opportunity of hearing has been given to the petitioner. So far as the plea of the learned counsel for the petitioner that his brother had also requested for adjournment on the ground of illness of petitioner is not tenable because it has not been disclosed either in the aforesaid application, which has been sent on 23.06.2023 nor any application/ representation has been made disclosing that the case has not been adjourned despite request of his brother.

4. Learned counsel for the petitioner further assailing the order dated 27.07.2023 submits that the notification under Section 52 of U.P. Consolidation of Holdings Act was stayed in Writ Petition No.49001 of 2006 (Rama Kant Vs. State of U.P. and Others) and 58920 of 2013 by this Court, which is still continuing, even then the respondents proceeded in the matter.

5. The contention of learned counsel for the petitioner is misconceived and not tenable because as recorded in the impugned order itself that the Writ Petition No.58920 of 2013 and Writ Petition No.875 of 2022 have been disposed of by means of the order dated 20.09.2020, whereas as submitted the order is dated 20.09.2022, with a direction to consider and dispose of the representation of the petitioner and the issuance of notification under section 52 has been stayed till disposal of the representation. The other writ petition no.49001 of 2006 has also been disposed of on the same date.

6. It is also recorded in the impugned order dated 27.07.2023, in paragraph-6, that the demarcation / change of possession has

already taken place, therefore there is no justification of fresh consolidation proceedings. This finding has not been assailed by the petitioner.

7. No other point/ground has been pressed or argued before the Court.

8. In view of above, the petition is misconceived and lacks merit. It is, accordingly, **dismissed**.

(Rajnish Kumar, J.)

Order Date :- 14.12.2023

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