

Court No. - 18

Case :- WRIT - B No. - 1110 of 2023

Petitioner :- Ram Khelawan

Respondent :- Deputy Director Of Consolidation, Barabanki
And Others

Counsel for Petitioner :- Amit Kumar Singh, Sameer Kumar
Upadhyay

Counsel for Respondent :- C.S.C.

Hon'ble Shree Prakash Singh, J.

Since, the instant matter is decided at the admission stage, notices to the private opposite parties are dispensed with.

Heard Sri Amit Kumar Singh, learned counsel for the petitioner, Sri Badrish Tripathi, learned Additional Chief Standing Counsel for the State and perused the material placed on record.

By means of instant petition, the petitioner has sought the following reliefs :-

*"a) To issue a writ, order or direction in the nature of CERTIORARI to quash the impugned order dated 06-10-2023 passed by Deputy Director of Consolidation Ayodhya in Case No. 0210/2023(Ram Khelawan versus Shakeel Ahmad) as well as order dated 15-06-2023 passed by Settlement Officer Consolidation Barabanki in Appeal No. 439/2023(Shakeel Ahmad Versus Ram Khelawan) as contained in **Annexure No. 1 & 2** to this writ petition.*

b) To issue a writ order or direction in the nature of MANDAMUS commanding the opposite party no. 2 to maintain status-quo till the disposal of Appeal No. 439/2023(Shakeel Ahmad Vs Ram Khelawan).

c) To issue any other writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case in favour of the petitioner."

Contention of learned counsel for the petitioner is that on an application moved under section 9(2) A of the Consolidation of Holding Act, 1953 (hereinafter referred to as 'Act,1953'), the order was passed on 01-10-2018 by the Consolidation Officer, whereafter, the consolidation proceedings leads to an end by way of the publication of the proceedings under section 52 (1) of the 'Act,1953', on 27-02-2021 and thereafter, an appeal was filed on 20-08-2022 i.e. at very belated stage and once the opposite parties started making hindrance in the farming over the land in question, then an application was moved before the

appellate court for grant of interim relief in favour of the petitioner, whereafter, the appellate court passed the order while directing the parties to maintain status-quo over the land and fixed a date, though, on the next date, the interim order was not extended and thereafter, the petitioner moved a revision, which was also dismissed.

Learned counsel for the petitioner has argued that once the appellate court was of the view that the balance of convenience goes in favour of the petitioner and an interim order was passed and therefore, without assigning any reason, the same cannot be rejected so far as its extension is concerned. He also added that the appeal has been filed after about 4 years of the date of the cause of action and the delay has still not been condoned and that is pending consideration and the opposite parties are making hindrance over the land in question and therefore, submission is that the appellate court may be directed to extend the benefit of the interim order as was granted earlier.

On the other hand, learned Additional Chief Standing Counsel appearing for the State has opposed the contentions aforesaid and submits that there is no merit in the contentions of the learned counsel for the petitioner as the interim order was granted consciously for a limited period as there was a crop over the land in question and as soon as the period was over, the interim order was not extended.

Considering the submissions of learned counsel for the parties and after perusal of material placed on record, it transpires that an appeal was instituted by the opposite parties after four years of passing of the order dated 01-10-2018 and an interim order was granted in favour of the petitioner and the petitioner is having possession over the land in question as per contention of learned counsel for the petitioner.

In view of the aforesaid, the orders dated 15-06-2023 and 06-10-2023 are not sustainable and the same are hereby set aside.

Since, the appeal is pending since 20-08-2022 and therefore, the appellate court is hereby directed to decide the appeal no. 439 within a period of six months from the date of this order, after affording opportunity of hearing to all concerned.

The parties are directed to maintain status-quo over the land in question till final outcome of the appeal.

The parties shall not seek any unnecessary adjournments unless reasons assigned.

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

Order Date :- 13.12.2023
AKS