

Court No. - 18

Case :- WRIT - B No. - 1161 of 2023

Petitioner :- Anil Verma

Respondent :- Board Of Revenue, U.P. Lucknow Thru.
Chairman/ President And Others

Counsel for Petitioner :- Shanker Lal Pandey

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

Hon'ble Shree Prakash Singh, J.

Heard Sri Shankar Lal Pandey, learned counsel for the petitioner, Sri Shatrughan Chowdhary, learned Standing Counsel for the State, Sri Durgesh Mishra, learned counsel for the caveators-respondent nos. 4 to 7 and Sri Pankaj Kumar Gupta, learned counsel for the Gaon Sabha-respondent no.3.

By means of the instant writ petition, the petitioner has assailed the orders dated 5.7.2023 and 10.11.2023 passed by the respondent no.1-Board of Revenue, Uttar Pradesh Lucknow passed in Case No.REV/540/2005-2006, Pratapgarh (Computerized Case No.R200606240025367), Gayadeen Vs. Additional Commissioner, under Section 219 U. P. Land Revenue Act, 1901.

Learned counsel for the petitioner submitted that the private respondents instituted an application under Section 33/39 of U.P. Land Revenue Act for correction, as per the determination under the consolidation proceedings, which occurred in 1972. He added that the matter was agitated at the various levels wherein the petitioner was a party and was heard. He also added that once the matter went up to the revisional court in a reference which was referred by the Commissioner, the petitioner was not arrayed as a party and, therefore, he moved

an application for impleadment on 31.7.2015 which remain pending consideration and the same was decided along with the final decision in the matter. He added that the impleadment application of the petitioner was outrightly rejected on the erroneous grounds. He submits that in fact, the petitioner is having 'pakka construction' over the land in dispute since long back and the private respondent nos.4 to 7 are the 'Baagdar' as is evident from the record itself and they are not tenure holder, therefore, if the dispute is being decided in reference to the petitioner, the petitioner is the essential party to be heard. He also added that if the order dated 10.11.2023 is given effect to, the constructions of the petitioner would be demolished and, as such, irreparable loss would be committed to the petitioner, therefore, the orders dated 5.7.2023 as well as the order dated 10.11.2023 may be set aside.

On the other hand, learned counsel for the caveators- private respondent nos. 4 to 7 has vehemently opposed the contention aforesaid and submitted that the petitioner was never arrayed as a party at any level and he was not an affected party, therefore, his impleadment application has rightly been rejected by the revisional court. Possession of the respondent nos. 4 to 7 is evident from parcha 45 as well as the proceedings under Sections 27(3) of the Consolidation of Holdings Act, 1953 and, therefore, the Commissioner has rightly decided the matter, vide order dated 10.11.2023 and, thus, no interference is warranted.

Learned counsel for the Gaon Sabha submitted that the caveators-private respondent nos. 4 to 7 are Baagdar and he has failed at every level to substantiate that they are tenure holders of the land in dispute.

Considering submissions of the learned counsel for the parties

and after perusal of the record, it transpires that the plea that land in question wherein the names of the caveators- private respondent nos.4 to 7 were entered as Baagdar, was raised before the Sub Divisional Officer while instituting application under Section 33/39 of the U.P. Land Revenue Act and, thereafter, the same was decided and, ultimately, at some level, the petitioner was also heard including the Gaon Sabha but when the matter went up to the revisional court, i.e., before the Board of Revenue by way of reference by the Commissioner, the Board of Revenue has rejected the impleadment application of the petitioner as the petitioner was not arrayed as a party by the revisionist and, ultimately, the matter was decided in favour of the caveators-private respondent nos. 4 to 7.

While examining the aforesaid matter in the facts and law, it emerges that the caveators-private respondent nos. 4 to 7 are claiming their right in the land in dispute as Baagdar and so far as the petitioner is concerned, he is having construction of house over the land in question since long back. The petitioner was heard at some length but so far as the revisional stage is concerned, his impleadment application has been rejected as the same was submitted on 31.7.2015, as he was not arrayed as a party.

This court is of the considered opinion that the petitioner in view of the aforesaid is the affected/essential party in revision and, therefore, the orders dated 5.7.2023 and 10.11.2023 are erroneous as per the settled law.

Consequently, the orders dated 5.7.2023 and 10.11.2023 passed by the respondent no.1-Board of Revenue, Uttar Pradesh Lucknow passed in Case No.REV/540/2005-2006, Pratapgarh (Computerized Case No.R200606240025367), Gayadeen Vs. Additional Commissioner, under Section 219 U. P. Land

Revenue Act, 1901, are hereby set aside.

The matter is remitted back to the Board of Revenue to decide the matter afresh after affording opportunity of hearing to the petitioner.

It is further directed that the matter shall be decided by the Board of Revenue within a period of three months from the date a certified copy of this order is produced before it. It is further directed that the Board of Revenue shall not grant any unnecessary adjournment to either of the parties.

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

Order Date :- 21.12.2023

Ram Murti