

Court No. - 19

Case :- WRIT - B No. - 1280 of 2024

Petitioner :- Smt. Mamta

Respondent :- Deputy Director Of Consolidation, Hardoi Camp
At Unnao And 2 Others

Counsel for Petitioner :- Anoop Srivastava

Counsel for Respondent :- C.S.C., Pradyumn Shukla

Hon'ble Manish Mathur, J.

1. Heard Mr. Anoop Srivastava, learned counsel for petitioner, learned State counsel for opposite parties No. 1 & 2 and Mr. Pradyumn Shukla, learned counsel for opposite party No.3/Caveator.

2. In view of the fact that all the necessary facts and evidence are already disclosed in the order impugned, the revision is being adjudicated upon at the admission stage itself without calling for a counter affidavit which even otherwise has been waived by learned counsel for opposite party No.3.

3. Petition has been filed challenging order dated 26th February, 2020 passed by the Settlement Officer Consolidation, whereby appeal preferred by opposite party No.3 against the order passed by the Consolidation Officer in favour of petitioner, has been allowed and the matter has been remanded for hearing as fresh.

4. Also under challenge is revisional order dated 21st October, 2024 passed by Deputy Director Consolidation.

5. Learned counsel for petitioner submits that petitioner had submitted objection under Section 9(A) of the Consolidation of Holdings Act, on the basis of a registered gift deed executed in her favour by her mother-in-law, Smt. Tarawati W/o Gaya Prasad. It is submitted that in the aforesaid proceedings, the Consolidation Officer allowed the objection under Section 9 primarily on the ground that the registered gift deed was also proved by both the witnesses in accordance with law.

6. It is therefore submitted that once the essential ingredients for proving the registered deed had been fulfilled, the Settlement Officer Consolidation erred in remanding the matter only on the ground that proceedings were concluded in a manner without giving proper opportunity of hearing to the

objectors.

7. Learned counsel for opposite party No.3 has refuted submissions advanced by learned counsel for the petitioner with the submission that from a perusal of record itself, it is evident that notice had earlier been issued by the Consolidation Officer to the opposite party No.3 but the proceedings were concluded without even recording service upon the said opposite party, who is son of the said Smt. Tarawati.

8. Upon consideration of submission advanced by learned counsel for parties and perusal of material on record, it is evident that objection under Section 9 of the Act was preferred by petitioner on the basis of registered gift deed said to have been executed in her favour by her mother-in-law, Smt. Tarawati. It is also evident from a perusal of order passed by Consolidation Officer that genuineness of aforesaid gift deed has been found to be established on the basis of deposition of both the witnesses to the deed.

9. It is also evident from a perusal of order passed by the Settlement Officer Consolidation as also evident by order of the Consolidation Officer that upon presentation of objection under Section 9, notices were issued to opposite party No.3 herein on 10th November, 2017 fixing 17th November, 2017 as the next date fixed. It appears that on 17th November, 2017, which was the first date fixed, evidence was taken without recording any fact pertaining to service of notice upon opposite party No.3. The next date fixed was 20th November, 2017 whereafter orders were passed on 21st November, 2017 itself.

10. The Settlement Officer Consolidation has allowed the appeal primarily on the ground that the objector was not heard while deciding aforesaid dispute which led to a procedural lapse and therefore the matter has been remanded.

11. Considering aforesaid facts and circumstances, it is quite evident from a conjoint reading of order passed by the Consolidation Officer and the Settlement Officer Consolidation that notice was in fact issued to opposite party No.3, but evidence was taken and proceedings concluded by the Consolidation Officer without recording any fact pertaining to service of notice upon said opposite party No.3. Adopting such a procedure is clearly a lapse on the part of the Consolidation Officer as has rightly been pointed out by the Settlement Officer Consolidation and upheld in revisional proceedings.

12. At this stage, learned counsel for petitioner has drawn attention to an application dated 24th August, 2018 submitted

by opposite party No.3 before the Settlement Officer Consolidation that proceedings even otherwise have been remanded indicating incorrect village but such application remains pending without any adjudication. The said fact has been admitted by the learned counsel for opposite party No.3.

13. Considering the discussion made herein above, this Court does not have any occasion to interfere with the order impugned.

14. However, such a fact regarding incorrect nomination of the village in the order can be very well looked into by the Consolidation Officer itself.

15. In view of above, the petition is **dismissed** at the admission stage itself, with a direction to the Consolidation Officer to decide aforesaid proceedings expeditiously.

16. Parties to bear their own costs.

Order Date :- 18.12.2024

Reena/-

(Manish Mathur,J.)