

Court No. - 2

Case :- WRIT - C No. - 11033 of 2024

Petitioner :- Ghanshyam

Respondent :- State Of U.P. Thru. Prin. Secy.
Home Lko. And 6 Others

Counsel for Petitioner :- Vijai Bahadur Verma

Counsel for Respondent :- C.S.C., Prashant
Tiwari

Hon'ble Rajan Roy, J.

Hon'ble Brij Raj Singh, J.

1. Sri Hari Om Pandey, Advocate has filed vaklatnama on behalf of the opposite party no. 7, which is taken on record. The instruction filed today is also taken on record.

2. Sri Hari Om Pandey has raised a preliminary objection regarding maintainability of this writ petition. His submission is that the dispute is between private parties, however, Sri Verma appearing for the petitioner says that it is the official opposite parties, who are facilitating illegal interference by the private parties herein in the title and possession of the petitioner, which is undisputed. The submission of Sri Verma is that the grandfather of the petitioner was granted a patta in respect of the land bearing Gata Nos. 3599, 3600, 3601, 3602, 3603, 3604, 3605, 3606 and 3607. After the death of the grandfather, father of the petitioner- Chheddi Ram was recorded as tenure-holder and after the death of Chheddi Ram, the petitioner was recorded as tenure-holder. However, in the interregnum i.e. while the father of the petitioner was alive, the consolidation operation was set into motion and an objection was filed by certain private persons under Section 9 A (2) of the U.P. Consolidation of Holdings, Act, 1953 (hereinafter referred to as 'the Act, 1953, which was decided ex-parte on 18.12.2010. Against which a recall application was filed. which was allowed on 18.3.2011, however, in the interregnum on 30.11.2010 i.e. prior to the passing of the order dated 18.12.2010. Section 6 notification was issued de-notifying the consolidation operation, as a consequence of

which the entire consolidation operation stood abated and the order passed by the Consolidation Officer under Section 9 A (2) of the Act, 1953 on 18.12.2010 after the de-notification under Section of the Act, 1953 was void and was never given effect apart from the fact that the order was recalled on 18.3.2011.

3. Against the aforesaid recall order dated 18.3.2011, the private opposite parties filed a revision, which was dismissed then they filed a Writ Petition bearing Consolidation No. 81 of 2015, which was dismissed on 25.5.2016 and its order is on record. In the interregnum, the said private parties sold out the land to one Dilip Kumar on 23.12.2010 without having any title, as whatever title they had was based on exparte order dated under Section 9 A (2) of the Act, 1953 on 18.12.2010, which in fact stood abated and proceedings in this regard attained finality.

4. Nevertheless, the petitioner challenged the said dated 23.12.2010 sought cancellation of the said sale deed dated 23.12.2010 executed in favour of Dilip Kumar in respect of the land in question, which was dismissed on 14.9.2020 against which a first appeal was filed, which was accepted/allowed on 13.5.2022, though in the final order passed in appeal specific observation/direction allowing the suit and cancelling the sale is not there but the fact that the appeal was accepted and the decree passed by the trial court was set aside is itself-evidence of fact that the sale deed under challenge stood quashed.

5. Against the said first appellate decree, the said Dilip Kumar filed a second appeal, which he withdrew on 24.7.2024. In the interregnum Dilip Kumar, without having title, sold out the land to the opposite party no. 7 herein, namely, Pankaj Kumar Mishra, who is now represented by Sri Hari Om Pandey, Advocate. The submission of Sri Verma in nutshell is that the title and possession of the petitioner is undisputed as on date, therefore, if the opposite party no. 7 is claiming any rights, he has to adopt process of law. The official opposite parties cannot facilitate the possession of

the opposite party no. 7 over the land in question.

6. Sri Raj Bux Singh, learned Additional Chief Standing Counsel has written instruction for the police authorities that no interference is being made by the police authorities.

7. In view of the statement of learned learned Additional Chief Standing Counsel, as the police authorities are not interfering in the matter, **we dispose of this writ petition** with the observation/direction that the police authorities shall not interfere with any dispute between the private parties and shall come into picture only if there is apprehension of breach of peace or apprehension of any crime or any other valid ground in law but shall have no role to play in interfering the title or possession related to the land in question. If the opposite party no. 7 claims any right he will have to seek recourse to the procedure prescribed in law.

[Brij Raj Singh, J.] [Rajan Roy, J.]

Order Date :- 20.12.2024 / Anuj Singh