

**Court No. - 19**

**Case :-** WRIT - B No. - 1302 of 2024

**Petitioner :-** Sushma

**Respondent :-** Learned Board Of Revenue Lko. And 10 Others

**Counsel for Petitioner :-** Abhinav Bhattacharya,Mudit Agarwal

**Counsel for Respondent :-** C.S.C.,Abhay Pratap Yadav,Dilip Kumar Pandey,Sandeep Kumar Yadav

**Hon'ble Manish Mathur,J.**

Heard Mr. J.N. Mathur, learned senior counsel assisted by Mr. Abhinav Bhattacharya, learned State counsel for opposite party no.1, Mr. Sandeep Yadav learned counsel for opposite party no.2 and Mr. Dilip Kumar Pandey learned counsel for opposite party no.11.

It has been submitted that opposite parties no.3 to 10 are merely proforma parties and therefore issuance of notice to such opposite parties is dispensed with.

Since only trivial issue is involved in the petition the same is being adjudicated upon at the admission stage itself without calling for counter affidavit.

Petition has been filed challenging order dated 06.12.2023 passed by the Board of Revenue exercising revisional powers.

Laches in filing the petition has been satisfactorily explained in para 13 of the memo of petition indicating that petitioner became aware of the impugned order only on 14.12.2024 whereafter the petition has been filed.

Learned counsel for petitioner submits that he had instituted partition proceedings under section 116 of the U.P. Revenue Code, 2006 in which an order of status quo was passed on 09.02.2022 whereafter by order dated 16.10.2023, a preliminary decree was drawn up.

Against the aforesaid orders, opposite party no.2 filed the said revision under Section 210 of the Code in which impugned order has been passed.

It is submitted that a single revision was filed against both orders and the revision, in fact, was time barred with regard to challenge to order dated 09.02.2022 but the revision was not only entertained but impugned order granting interim injunction has been passed without condoning delay in filing the revision.

Learned counsel appearing for opposite party no.2 has refuted the submissions advanced by learned counsel for petitioner with the submission that in cases where the Board exercises suo motu powers under section 210 of the Code, principles of limitation would be inapplicable and, therefore, there is no error in the order passed.

Upon consideration of the submissions advanced by learned counsel for parties and perusal of material on record it is evident that a single revision has been filed against the order of status quo granted in partition proceedings dated 09.02.2022 as well as the order drawing up preliminary

decree dated 16.10.2023.

It is admitted that limitation period for filing a revision is 60 days from the date of passing of order.

In view of aforesaid the revision having been filed on 28.11.2023 it was clearly time barred so far as order dated 09.02.2022 is concerned.

It is also beyond doubt that Board of Revenue has not exercised suo motu powers of entertaining revision but in fact had entertained a revision filed by the opposite party no.2 under section 210 of the Code of 2006.

In such circumstances the Board was clearly bound by the limitation prescribed.

It is admitted as on record that with regard to the order dated 09.02.2022 there was neither any application for condonation of delay nor has any suo motu powers for condonation of delay been exercised by the Board with regard to the said order.

In view of the aforesaid, the order impugned has been clearly passed against procedural law and is therefore, vitiated on that ground so far as it relates to the order dated 09.02.2022.

In view of aforesaid, the impugned order dated 06.12.2023 passed in revision no.3395/23 is hereby partly quashed so far as it relates to order dated 09.02.2022.

In view of the aforesaid the petition succeeds and is allowed at the admission stage itself partly to the extent indicated hereinabove.

**Order Date :- 19.12.2024**

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