

Neutral Citation No. - 2025:AHC:130543

Reserved On: 23.07.2025

Delivered On: 04.08.2025

Court No. - 9

Case :- MATTERS UNDER ARTICLE 227 No. - 2467 of 2024

Petitioner :- Ramesh Kumar And 5 Others

Respondent :- Rambhawan

Counsel for Petitioner :- Ramakant Tiwari

Hon'ble Manish Kumar Nigam,J.

1. Heard Sri Ramakant Tiwari, learned counsel for the petitioners.
2. Despite service of notice, nobody has put in appearance on behalf of the plaintiff-respondent and the petition is being decided ex-parte as the plaintiff-respondent has neither appeared before this Court nor filed any counter affidavit.
3. This petition has been filed by the defendant-petitioners challenging the order dated 23.11.2023 passed by the Additional District and Sessions Judge, Court No. 4 Chitrakoot allowing the miscellaneous Civil Appeal No. 10 of 2022 (Ram Bhawan Vs. Ramesh Kumar and others) filed under Order 43 Rule 1(r) of C.P.C against the order passed by the trial court i.e. Civil Judge (Junior Division), Mau, Chitrakoot dated 24.05.2022 rejecting the application for interim injunction filed by the plaintiff-respondent in Original Suit No. 27 of 2022 (Ram Bhawan Vs. Ramesh Kumar and others).
4. Facts in brief are that Original Suit No. 27 of 2022 was instituted by the plaintiff-respondent Rambhawan against the petitioners for the relief of permanent injunction restraining the defendant Nos. 1 to 6 (petitioners) from raising wall over the area shown by 'ka' 'kha' in the plaint map of

disputed Gata No. 10 area 0.202 hectare situated at village Bhoj, Tehsil- Mau, District- Chitrakoot. The details of the land in dispute was given in the plaint. Case of the plaintiff-respondent was that Gata No. 10 area 0.202 hectare situated at village Bhoj, Tehsil- Mau, District- Chitrakoot is recorded in the name of plaintiff-respondent as bhumidhar and has been described in the plaint by words 'ka' 'kha' 'Ga' 'Gha'. The land in dispute was allotted to the plaintiff by the Gaon Sabha before the consolidation operations and in the consolidation operations, the plaintiff was recorded as bhumidhar with non-transferable rights and with the passage of time, plaintiff-respondent became bhumidhar of the land. It has also been pleaded that defendant-petitioners are trying to raise the wall over the area 'ka' 'kha' described in the plaint map. The application for temporary injunction was also moved by the plaintiff-respondent restraining the defendant-petitioners from raising wall over the point 'ka' 'kha' shown in the plaint. After notice the defendants appeared and filed their written statement. The case of the defendant-petitioners was that Gata No. 8 cha area 3.310 hectare (Old No. 1/1/1) belonged to Samay Lal son of Ram Prasad, Amarnath and Jagannath sons of Ram Kishore. Samay Lal and Jagannath sold their entire share of the land in favour of Smt. Rajwanti Devi wife of Moti Lal and after the sale deed Rajwanti Devi and Amarnath were recorded as bhumidhar of the land i.e. Gata No. 8 cha (Old No. 1/1/1) area 3.310 hectare. Gata No. 8 cha is adjacent to Prayagraj-Banda National Highway. Plaintiff is the bhumidhar of Gata No. 1/6 (New Gata No. 10) which is situated on North East corner adjacent to Nala. It has been further stated in the written statement that during consolidation operations plaintiff in collusion with the consolidation staff got the consolidation map prepared incorrectly showing Gata No. 1/6 (New No. 10) to be adjacent to the National Highway. After coming to know about the said discrepancy in the consolidation map, original tenure holders i.e. Amarnath and Rajwanti Devi instituted a case in the court of Consolidation Officer, Mau. The said

case was registered as Case No. 12/ 55 and the application filed by Amarnath and Rajwanti Devi was rejected by the Consolidation Officer, Mau by order dated 06.02.2021. During this period, the heirs of the deceased Amarnath and Rajwanti Devi executed a sale deed of Gata No. 8 Cha in favour of one Roshan Lal (father of the petitioner Nos. 1 to 5 and husband of petitioner No. 6) on 03.02.2021 and since the date of sale deed the defendant-petitioners were in possession over the land in dispute. After coming to know about the order dated 06.02.2021, the defendants filed an appeal before the Settlement Officer of Consolidation on 02.12.2021 which is pending. The application for temporary injunction filed by the plaintiff-respondent was rejected by the trial court by order dated 24.05.2022. Being aggrieved with the order dated 24.05.2022, the plaintiff-respondent filed an appeal being Misc. Appeal No. 10 of 2022 under Order 43 Rule 1(r) C.P.C. The said appeal has been allowed by the Additional District Judge, Court No. 4 Chitrakoot and the petitioners-defendants were restrained from raising any construction over the land in dispute and were directed to maintain status quo. Hence the present petition.

5. It has been contended by counsel for the petitioners-defendants that the in collusion with the consolidation authorities, incorrect map was prepared during consolidation operations showing Gata No. 10 to be adjacent to National Highway. It has been further contended by counsel for the petitioners that the appeal filed by the petitioners was allowed by the Settlement Officer of Consolidation by its order dated 30.08.2022 and the order dated 06.02.2021 passed by Consolidation Officer was set aside and the matter has been remanded to the Consolidation Officer to decide the same afresh after providing opportunity of hearing and evidence to the parties. It has also been submitted by counsel for the petitioners that against the order dated 30.08.2022, a revision filed by the plaintiff-respondent has also been dismissed by the Deputy Director of Consolidation vide order dated 19.09.2023. Learned counsel for the

petitioners also submitted that order dated 30.08.2022 passed by the Settlement Officer of Consolidation, Chitrakoot was brought on record in appeal but the same has not been considered by the lower appellate court and therefore, he further submitted that the order impugned passed by the lower appellate court is vitiated for non consideration of document i.e. judgment in appeal passed by the Settlement Officer of Consolidation, especially, when the injunction has been granted on the ground that appeal filed by the petitioners is pending.

6. I have perused the order impugned as well as the averments made in the writ petition and the annexures annexed thereto. The predecessor in interest of the petitioners i.e. Amarnath and Rajwanti Devi filed an application under Section 42 of the U.P. Consolidation of Holdings Act, 1953 for correction of confirmed consolidation map prepared by the consolidation authorities and the same was registered as Case No. 12/55, the said application was rejected by the Consolidation Officer by order dated 06.02.2021. Against the order dated 06.02.2021, an appeal was filed by the present petitioners and the same has been allowed by the appellate court (Settlement Officer of Consolidation) by order dated 30.08.2022 and the order dated 06.02.2021 rejecting the application filed by the predecessor in interest of the petitioners under Section 42 of the U.P. Consolidation of Holdings Act, 1953 was set aside and it was further directed that the said application may be decided and considered afresh in accordance with law after providing opportunity of hearing and evidence to the parties. The revision filed against the order dated 30.08.2022 has already been rejected by the Deputy Director of Consolidation and the proceedings are pending before the Consolidation Officer. Thus, it is clear that the application filed by the predecessor in interest of the petitioners under Section 42 of the U.P. Consolidation of Holdings Act for correction of confirmed consolidation map prepared during consolidation operation is still pending and has yet not been decided finally. Unless, the application filed by the predecessor in interest of the petitioners under

Section 42 of the U.P. Consolidation of Holdings Act, 1953 is allowed and the map is directed to be accordingly corrected, the map prepared during consolidation operation remains intact and according to the same, the land of the plaintiff which is Gata No. 10 (old No. 1/6) is adjacent to the National Highway as claimed by the plaintiff.

7. In my view the lower appellate court has not committed any error in restraining the defendant-petitioners from raising the construction over the disputed land and further directing to maintain status quo as the dispute as to correction of map is still not final and the order has been passed in order to secure the property because in case constructions are being raised and ultimately, the petitioners lose before the Consolidation authorities or revenue authorities, irreparable loss will be caused to the plaintiff-respondent.

8. I do not find any merit in the writ petition and is accordingly, **dismissed.**

Order Date: 04.08.2025

Nitika Sri.

(Manish Kumar Nigam,J.)