Court No. - 65

Case :- WRIT - C No. - 21244 of 2020

Petitioner :- Syed Khalid And Another
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Pramod Kumar Sinha
Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh,J.

1. Heard Sri Pramod Kumar Sinha, learned counsel for the petitioners and learned Standing Counsel for the State-respondents.

2. Challenge in the writ petition is to the order-cum-notice dated 31.08.2020 issued by respondent no.3-Sub Divisional Magistrate, Sadar, Rampur in Case No.01664 of 2020 Computerized No. T202013590101664 (State Vs. Lateef Begum & Ors.).

3. Bereft of unnecessary details it is the submission of learned counsel for the petitioners that without issuing any prior notice and without affording any opportunity of hearing to the petitioners, the aforesaid order has been passed to remove the names of the petitioners from the revenue record and to record the land in dispute in the name of State Government and to further dispossess the petitioners. Having issued that direction, Sub Divisional Magistrate has thereafter observed that a notice be issued to the petitioners and other similarly situated persons named in the aforesaid communication.

4. In view of the aforesaid recital contained in the impugned communication itself, it is clear that no prior notice had been issued to the petitioners before the aforesaid directions came to be issued.

5. In such circumstances, submission of learned Standing Counsel is that, at present, the petitioners have only been

required to show cause, cannot be accepted as the rights of the parties have already been adjudicated and the post decisional hearing may not satisfy the requirement of justice as besides directing removal of the names of the petitioners from the revenue record, their dispossession has also been ordered.

6. If the petitioners are allowed to be dispossessed, the opportunity of hearing proposed to be given by the impugned communication, would remain illusory. At the same time, since the opportunity of hearing has been contemplated, it is considered proper that the petitioners be allowed to raise all objections to the deletion of their names from the revenue record and to the direction for their dispossession, before the impugned communication is given effect to.

7. Accordingly, the present writ petition is **disposed of** with the following directions:

(i) At present, the impugned communication dated 31.08.2020 be treated as a show cause notice. The alleged findings recorded therein be treated as points on which the petitioners may be required to show cause.

(ii) Since the communication dated 31.08.2020 is already in the knowledge of the petitioners, they are granted four weeks' time from today to submit a reply to the same before respondent no.3. While submitting such reply, all pleas may remain open to the petitioners including of those regarding jurisdiction.

(iii) Once such reply has been filed, respondent no.3 may proceed to decide the objections so raised after affording opportunity of personal hearing to the petitioners within a period of three months from the date of submission of the

objection.

(iv) In case, any further clarification is required, respondent no.3 may seek and petitioners may furnish the same within the same period of three months.

(v) For a period of four months from today, operation and effect of the impugned communication dated 31.08.2020, insofar as it requires deletion of the names of the petitioners from revenue records and dispossession, shall stand in abeyance.

(vi) All further action pursuant to the communication dated 31.08.2020 may be taken in conformity with the decision made by respondent no.3, in compliance of this order.

Order Date :- 9.12.2020
Abhilash

Digitally signed by Justice Saumitra Dayal Singh
Date: 2020.12.09 17:16:54 IST
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