



the Tahsildar and the order, both of which unfortunately depict a contradictory position. A perusal of the proceedings before the Tahsildar/ALT on 23.03.2021 when the matter was posted before him indicates the respondent No.1, who was the applicant in Section 70(a) proceedings was absent. The order sheet further records the presence of the counsel for the present petitioners and that both the parties were granted sufficient opportunities for arguments and closes the case. What is material to note, is that the order sheet 23.03.2021 does not record that the counsel for the petitioners was heard on that date or on any earlier dates or that any written notes of arguments were filed by them.

2. As against this, the order of Tahsildar dated 15.04.2021 (Page-57 of the compilation) indicates, that except for his application under Section 70(a) of the MT & AL Act, the respondent No.1 /applicant had not filed anything else. In spite of this position, the learned ALT goes on to pass a reasoned order by indicating that the oral arguments were heard and documents were seen, which is contradictory to his own statement as contained in (Page-2) of the order. Though a ground in this regard, was raised in the Tenancy Appeal before the SDO, Ground

No.6 ((Page-76) on account of which a prayer for remand was made (Page- 84) vide prayer clause (c) and also before the MRT vide ground No.1 (Page- 100), both the Appellate and Revisional Authorities have not taken this position into consideration. Though in the case of **State of U.P V/s. Sudhir Kumar Singh and Ors<sup>1</sup>**, the Hon'ble Apex Court has held that the violation of the principle of natural justice cannot be a ground to set aside the order, it has equally been held, that this can be a ground, if it is demonstrated that prejudice has been caused. The order sheet in comparison with the order of the Tahsildar dated 15.04.2021 would clearly indicate the prejudice on the face of it. Though Ms. Singh, the learned counsel for the respondent No. 1 tries to justify the impugned orders on the plea that the grounds of prejudice have not been raised before the Authorities below, however, in light of the above position as indicated above, the prejudice being apparent which ought to have been considered by the Authorities below. Considering the above, the impugned orders are hereby quashed and set aside and the matter is remitted back to the Tahsildar/ALT, Murbad for decision according to law. The parties shall appear before him on

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8<sup>th</sup> July 2024. The learned Tahsildar is directed to decide the aforesaid proceedings as expeditiously as possibly and in any case within 12 weeks. Petition is disposed of.

**(AVINASH G. GHAROTE, J.)**