HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 39017 of 2026

Girdhari Lal

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anand Mohan Pandey, Deepak Kumar
Counsel for Respondent(s)	:	Achal Singh, C.S.C.

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Anand Mohan Pandey, learned counsel for the petitioner, Mr. Mewa Lal Gupta, learned Standing Counsel for the State, and Mr. Achal Singh, learned counsel for the Gaon Sabha.

2. The instant petition has been filed seeking the following reliefs:

"i) Issue a writ, order or direction in the nature of certiorari for quashing the impugned orders dated 8.10.2021 and 20.4.2024 passed by the respondents no. 3 and 2 respectively (vide Annexure No.1 and 3 to this writ petition.

ii). Issue a writ, order of direction in the nature of mandamus commanding and directing the respondents not to disturb the peaceful possession of the petitioner over the land in question bearing khata no.19 and khata no.20 situated in village Magarhai Tehsil Rajapur District Chitrakoot."

3. Learned counsel for the petitioner submitted that the Kurra prepared by the Lekhpal has been confirmed without affording any opportunity of hearing to the petitioner. He further submitted that an appeal filed on behalf of the petitioner has been dismissed on misconceived grounds. He further submitted that the impugned orders passed in the suit proceedings as well as in the appeal deserve to be set aside and the Lekhpal be directed to prepare a fresh Kurra after affording an opportunity to the petitioner to file objections before the trial court.

4. Mr. Mewa Lal Gupta, learned Standing Counsel, and Mr. Achal Singh, learned counsel for the Gaon Sabha, submitted that the appeal filed by the petitioner himself was dismissed on 20.04.2024 and the instant petition has been filed after about two years from the date of passing of appellate order, as such, the instant petition deserves to be dismissed on the ground of laches. They further submitted that reasons have been assigned while dismissing the petitioner's appeal as such, the argument advanced

by learned counsel for the petitioner that the petitioner was not afforded an opportunity to raise objections against the Kurra prepared by the Lekhpal cannot be accepted. They, therefore, submitted that the petition filed by the petitioner deserves to be dismissed.

5. I have considered the arguments advanced by learned counsel for the petitioners, learned Standing Counsel for the State, learned counsel for the Gaon Sabha and perused the record.

6. There is no dispute about the fact that, in the suit for division of holdings, the Kurra was prepared by the Lekhpal and the same was confirmed by the trial court in the year 2021. There is also no dispute about the fact that the appeal filed by the petitioner was dismissed on 20.04.2024 and the instant petition has been filed after about two years from the date of passing of appellate order dated 20.04.2024.

7. In order to appreciate the controvercy involved in the matter, the perusal of relevant portion of appellate order dated 20.04.2024 will be necessary which is as under:

"उभयपक्ष के विद्वान अधिवक्ता की बहस सुनी गयी तथा अवर न्यायालय की पत्रावली में उपलब्ध अभिलेखों का अवलोकन व परीक्षण किया गया। अपीलकर्ता गिरधारीलाल द्वारा अवर न्यायालय में उ०प्र०रा०संहिता की धारा 116 के अंतर्गत बटवारे का वाद योजित किया गया। पक्षों को नियमानुसार सम्मन (2) भेजे गये। विपक्षी संख्या 01 के द्वारा दिनांक 02.07.2016 को वाद पत्र में वो हिस्सा को स्वीकार किया गया। तत्पश्चात दिनांक 02.07.2016 को प्रारम्भि आदेश पारित कर पक्षों के अंश घोषित किये गये। उक्त आदेश के अनुपालन लेखपाल द्वारा दिनांक 31.08.2021 को कुर्राफांट रंगाभेदी नक्शा तैयार किया गया तथा न्यायालय में दिनांक 16.09.2021 को दाखिल किया गया। कुरोप व नक्शा रंगाभेदी में अपीलकर्ता द्वारा अपने हस्ताक्षर किये गये। उक्त आधार पर अवर न्यायालय द्वारा दिनांक 08.10.2021 को कुर्राफांट की पुष्टि कर गयी।

यहां यह उल्लेखनीय है कि अवर न्यायालय में वाद पत्र के अनुर प्रारम्भिक आदेश पारित किया गया तथा उक्त आदेश के अनुपालन में कुर्राफा रंगाभेदी नक्शा दाखिल किया गया, जिसमें पक्षों के द्वारा अपने हस्ताक्षर कि गये। उक्त से यह प्रथम दृष्टया पुष्ट है कि लेखपाल द्वारा कुर्राफांट व नव रंगाभेदी पक्षों की सहमति के आधार पर बनाया गया है, जिसकी पुष्टि अतर न्यायालय द्वारा की गयी है। इसके अतिरिक्त सी०पी०सी० की धारा 96 (3) उल्लेख है कि No appeal shall lie from a decree passed by the Court with the consent of parties इस प्रकार पों की सहमति के आधार प पारित आदेश के विरुद्ध अपील पोषणीय नहीं है।

आदेश

उपरोक्त के आलोक में अपील निरस्त की जाती है। आदेश की प्रति क साथ अवर न्यायालय की पत्रावली वापस की जाये। बाद आवश्यक कार्यवाह। पत्रावली दाखिल दफ्तर हो।

दिनांक: 20 अप्रैल, 2024

(बाल कृष्ण त्रिपाठी)

आयुक्त

आज यह आदेश मेरे द्वारा खुले न्यायालय में सतिथि हस्ताक्षरित उद्घोषित किया गया।

दिनांकः 20 अप्रैल 2024

सत्यप्रतिलिपि

8. Considering the Kurra prepared by the Lekhpal and the reasons assigned in the appellate order as quoted above, this Court finds no ground to interfere with the impugned orders passed in the proceeding under Section 116 of the U.P. Revenue Code, 2006.

9. It is also material to mention that filing of writ petition after about 2 years from the date of dismissal of appeal filed by petitioner himself demonstrate that petitioner is abusing the process of law.

10. No interference is required in the matter.

11. The instant petition is **dismissed**.

October 29, 2026
Fahad

(Chandra Kumar Rai,J.)

Digitally signed by :-
FAHAD NIYAZ
High Court of Judicature at Allahabad