

**Court No. - 32**

**Case :-** WRIT - B No. - 963 of 2022

**Petitioner :-** Neeraj Kumar

**Respondent :-** The Board Of Revenue And 10 Others

**Counsel for Petitioner :-** Lalji Chaudhary

**Counsel for Respondent :-** C.S.C.,Durga Charan Singh  
Yadav,Hari Narayan Singh,Manish Kumar Pandey

**Hon'ble Dinesh Pathak,J.**

Heard learned counsel for the petitioner, learned counsel for the private respondent nos. 4, 5 and 6, learned counsel for the Gaon Sabha (respondent no. 12) and the learned Standing Counsel representing respondent nos. 1, 2, 3 and 13.

Grievance of the petitioner is that the first appellate court and second appellate court have illegally granted co-tenancy right to the plaintiff-respondent nos. 4, 5 and 6 without properly appreciating the evidence available on record.

It is stated that plaintiff-respondent nos. 4, 5 and 6 have filed a suit for declaration under Section 229B of the U.P. Z.A. & L.R. Act and partition under Section 176 of the U.P. Z.A. & L.R. Act claiming co-tenancy right over the property in question on the ground that after the death of Bhulai his brother Vishal has succeeded the property in question and after the death of Vishal, all his four sons have succeeded the property but name of only Beni Prasad is recorded in the revenue record. The suit filed by the plaintiffs was dismissed by the trial court and the same was reversed by the first appellate court. The second appellate court has affirmed the order passed by the first appellate court. It is submitted that possession of Beni Prasad and revenue entry in his name has legally been ignored by both appellate courts. Apart from that finding of trial court on issue no. 11 qua bar of suit under Section 49 of U.P.C.H. Act has not been reversed by appellate courts.

The matter requires consideration.

Issue notice to respondent nos. 7 to 11 returnable at an early date fixing 31.08.2022.

In the meantime parties shall exchange their respective

affidavits.

Considering the facts and circumstances of the case, parties are directed to maintain the status quo till the next date of listing. It is made clear that no third party right shall be created over the property in question.

**Order Date :- 12.7.2022**

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