Court No. - 21

Case :- WRIT - B No. - 1408 of 2021

Petitioner :- Satish Chandra And Another
Respondent :- The Board Of Revenue And 9 Others
Counsel for Petitioner :- Girish Chandra Maurya,Panchu Ram Maurya
Counsel for Respondent :- C.S.C.,Aloke Kumar,Azad Rai

Hon'ble Dinesh Pathak,J.

Heard Sri Panchu Ram Maurya assisted by Sri Girish Chandra Maurya, learned counsel for the petitioners, Sri Azad Rai, learned counsel Gaon Sabha, learned Standing Counsel for respondent nos. 1, 2 and 3 and Sri Santosh Kumar and Sri Bakhtyar Yusuf who have filed his memo of appearance on behalf of respondent nos. 5, 6, 7, 8, 9 and 10, which is taken on record.

Grievance of the petitioners is that respondent no. 1 and 2 have illegally discarded the claim of the petitioners on the basis of photostate copy of order dated 22.07.1968 whereas proceeding under Section 12 of U.P.C.H was culminated, vide order dated 02.01.1967, in favour of present petitioners.

Counsel for the petitioners submits that the present petitioners are claiming their right and entitle on the basis of sale deed dated 02.01.1967 executed by recorded tenure holder Smt. Ram Dulari in their favour and got their name recorded in the revenue record during the consolidation proceedings under Section 12 of the U.P.C.H. Act, vide order dated 02.03.1967 passed by Consolidation Officer.

At a very belated stage contesting respondents have filed a suit under Section 229-B of U.P.Z.A.L.R. Act claiming their right and entitle on the basis of alleged order dated 22.07.1968 said to have been passed by Settlement Officer of Consolidation. Aforesaid suit was dismissed by trial court vide its order dated 30.06.2000 with a definite finding in deciding issue no. 3 that plaintiff has filed a photostate copy on 22.07.1968 which has never been given effect to in the revenue records. After such a long period, since July 1968, it is difficult to believe its genuineness and it appears doubtful. He has also given a finding that defendants in their written statement dated 28.07.1988 has taken a specific plea with respect to forged and fictious nature of the order dated 22.07.1968 but the said contention was not controverted by the plaintiff in their replication.

The Additional Commissioner has illegally reversed the order passed by the trial court without reversing its finding and has illegally relied upon the photostate copy of order dated 22.07.1968 which is not admissible in evidence. Board of Revenue has committed the same error in affirming the order passed by Additional Commissioner.

Matter requires consideration.

Counsel for the caveator prayed for and is granted four weeks time to file counter affidavit, thereafter, three weeks to counsel for the petitioners for filing rejoinder affidavit, if any.

Till further order of this Court effect and operation of the order dated 27.05.2003 passed by Additional Commissioner-I, Allahabad Division, Allahabad and 29.06.2021 passed by Board of Revenue, U.P., shall remain stayed.

List on 08.11.2021.

Order Date :- 9.9.2021
Ujjawal