

Court No. - 6

Case :- WRIT - B No. - 2362 of 2021

Petitioner :- Smt. Ram Dulari

Respondent :- Deputy Director Of Consolidation And 3 Others

Counsel for Petitioner :- Prashant Kumar Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Rajiv Joshi,J.

Heard Sri Prashant Kumar Tripathi, learned counsel for the petitioner, learned Standing counsel for the State-respondent and perused the record.

The instant writ petition has been filed for quashing the impugned order dated 8.7.2021 passed by the Deputy Director of Consolidation, Mirzapur in Revision No.470 of 2021.

It is contended by learned counsel for the petitioner that the application filed by respondent no.2 for construction of dwelling house as required under Section 5(1) (c) of Consolidation of Holdings Act was rejected by the Settlement Officer Consolidation vide order dated 29.10.2020. Against that order, a revision was filed by respondent no.2 which has been allowed by the Deputy Director of Consolidation and the permission was granted. It is next submitted that Section 5(1)(c) of the Act, only the Settlement Officer Consolidation can grant permission for construction of dwelling house, if the order passed by the Settlement Officer Consolidation, rejecting the grant of permission, the Deputy Director of Consolidation should have remitted the matter before the Settlement Officer Consolidation for the same. It is next submitted that a civil suit being Original Suit No. 250 of 2020 is already pending, and therefore, application filed by the respondent no.2 is not maintainable during the pendency of the said suit.

Matter requires consideration.

Learned Standing counsel has accepted notice on behalf of respondent no.1.

Issue notice to the respondent nos. 2 to 4 returnable at an early date. Steps be taken within two weeks by registered/speed post.

All the respondents are directed to file counter affidavit within six weeks. Rejoinder affidavit, if any may be filed within two weeks thereafter.

List immediately after eight weeks in the additional cause list.

Till the next date of listing, effect and operation of the impugned order dated 8.7.2021 passed by the Deputy Director of Consolidation, Mirzapur in Revision No.470 of 2021 shall remain stayed.

Order Date :- 20.12.2021

Akbar