

Court No. - 49

Case :- WRIT - B No. - 2205 of 2025

Petitioner :- Abhay Nath Tiwari

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Anuruddh Chaturvedi, Munna Tiwari

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble J.J. Munir, J.

The petitioner's mutation application based on the Will was rejected by the Tehsildar, Tehsil-Salempur, District Deoria. But on appeal, the Appellate Court, by a well considered order, remanded the matter to the Tehsildar, after setting aside his order of 05.08.2021, *vide* order dated 30.07.2024. The Appellate Court required the marginal witnesses at least one of them to be examined saying that the remark of the Trial Court that the petitioner was not prepared to produce the marginal witness is ill-founded. Against the aforesaid order of remand, Board of Revenue, U.P. at Lucknow allowed the revision and restored the Tehsildar's order, setting aside the Appellate Court's remand. The Revisional Court has proceeded to accept the Will dated 02.11.2012 executed by one Maina Devi and rejected the Will dated 17.05.2000 propounded by the petitioner, as if finally pronouncing upon the validity of the two documents. It is submitted by the learned Counsel for the petitioner that the order passed by the Board of Revenue is one which enters into a thick title dispute and upholds one of the Wills finally, which is beyond the scope of mutation proceedings.

Issue notice.

Notice on behalf of respondent nos. 1 to 4 is accepted by Mr. Rajesh Kumar Tiwari, learned Additional Chief Standing Counsel

and that on behalf of respondent no. 6 by Mr. Sudhir Bharti, Advocate. Both the learned Counsel are granted three weeks' time to file a counter affidavit.

Steps to serve respondent no. 5 shall be taken by RPAD within a week.

List for **admission** on **11.07.2025** along with a report regarding service and the postal track attached.

Office shall submit a report regarding status of pleadings.

Till the next date of listing, operation of the impugned order dated 07.05.2025 passed by the Board of Revenue, U.P. at Lucknow in Revision No. 2442 of 2024, Vyasmani Tiwari vs. Abhaynath Tiwari, shall remain stayed and parties shall maintain *status quo* regarding possession, nature and character of the land in dispute.

Let this order be communicated to the Collector, Deoria and the Tehsildar, Tehsil-Salempur District Deoria through the Chief Judicial Magistrate, Deoria by the Registrar (Compliance) **within 24 hours.**

Order Date :- 28.5.2025

Deepak