

Court No. - 74

Case :- WRIT - B No. - 1363 of 2020

Petitioner :- Bari Lal

Respondent :- State Of U P And 6 Others

Counsel for Petitioner :- Vishal Khandelwal

Counsel for Respondent :- C.S.C.,Kaushal Kishore Mani

Hon'ble Ajit Kumar,J.

Heard Sri Vishal Khandelwa, learned counsel for the petitioner through video conference and learned Standing Counsel for the State respondents.

By means of this petition under Article 226 of the Constitution, the petitioner has assailed the order dated 20.04.2020 passed by the Board of Revenue, U.P., Allahabad.

The Plea taken by the petitioner is that it was an interlocutory order of stay, passed by the Sub Divisional Officer dated 01.01.2018 against which the revision was not maintainable and therefore, the Board of Revenue fell in serious error of law and jurisdiction in entertaining the revision petition.

Briefly stated facts of the case are that the original tenure holder Balwant Singh was recorded over the land in question, however, while the Balwant Singh was still alive, it appears that by means of an administrative order a P.A. 11 entry was made striking off his name and mutating the names of Kuldeep Kumar and Sarita Devi. A misc. application was filed before the Tehsildar, Jasrana questioning the change in the entries in revenue records of the land in question and realizing the mistake after due inquiry conducted in the matter the entries were directed to be strike off vide order dated 05.09.2011.

The opposite parties in that case namely Kuldeep Kumar and Sarita Devi did not object to the change in revenue records and accordingly an order to that effect was passed on 17.11.2017 on a miscellaneous application moved by Balwant Singh restoring the entry in the name of Balwant Singh. It appears that the present petitioner moved some misc. application on 01.01.2018 for recalling of the said order on the ground that Balwant Singh had already died and some mischief had taken place at the end of one Chakrapal of the village who according to him intend to grab the land and therefore, the order dated 17.11.2017 was passed misleading the court. The recall application was entertained and vide order dated 01.01.2018 the order dated 17.11.2017 was put in abeyance. Against the said order, the contesting opposite party moved a revision petition claiming to

be a title holder of the land in question on the basis of sale deed executed by the power of attorney of Balwant Singh and further claimed that the present petitioner Bari Lal had no right to the land in question as neither he succeeded the land from Balwant Singh in any manner nor, was related to Balwant Singh in any manner and accordingly at the end of third party such an application for recall was not at all maintainable.

This revision petition has been allowed on 20.04.2020 holding the petitioner not entitled to maintain the recall application.

On a pointed query being made by learned counsel for the petitioner as to what right Bari Lal has, the counsel for the petitioner submitted that the Bari Lal does not have any right to the land either by way of succession or transfer, but he is a vigilant person in the village and has come to know that certain land grabbers are trying to grab the land of Balwant Singh who has already died. He submits that if the Balwant Singh has died and there is no taker of the land, the land should be taken as an abundant land and should vest with the Gaon Sabha.

At this stage, learned Standing Counsel submits that if the land is an abundant land then appropriate proceedings should have been drawn under Section 186 of the U.P.Z.A. and L.R. Act, 1950/ Section 67 of U.P. Revenue Code, 2006. Learned Standing Counsel does agree that there is no legal right to maintain a recall application in a proceeding of mutation between two parties namely the father and the son claiming rights in respect of the land in question.

Having heard learned counsel for the parties including the counsel appearing for Gaon Sabha Sri Kaushal Kishore Mani, this Court is of the considered opinion that Bari Lal does not have any direct right or interest in the land in question and therefore, his recall application in respect of the mutation order in favour of original tenure holder was certainly not maintainable.

Further, this petition is not a public interest litigation and so this Court, in exercise of power under Article 226 of the Constitution would not interfere in the order passed by the Board of Revenue on an *inter se* dispute between the two parties, at the instance of a stranger to the controversy. However, liberty rests with the petitioner to move an appropriate application under Section 67 of U.P. Revenue Code, 2006, in case if the land is an abundant land, inasmuch as, the Gaon Sabha is competent enough to take care of the land in question.

Writ petition fails and is accordingly **dismissed** with cost.

Order Date :- 26.11.2020

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