

Court No. - 32

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Case :- WRIT - C No. - 8306 of 2021

Petitioner :- Rajpal

Respondent :- Additional Commissioner And 6 Others

Counsel for Petitioner :- Mahendra Ram Maurya

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

Hon'ble Rohit Ranjan Agarwal,J.

Heard Sri Mahendra Ram Maurya, learned counsel for the petitioner, learned Standing Counsel for the State respondents and Sri K.K. Mani, learned counsel for the Gram Panchayat.

Notice need not to be sent to the respondent nos. 5 to 7 at this stage.

This writ petition has been filed assailing the order dated 05.02.2020 passed by the respondent no. 1 in Case No. 167 of 2020 (Rajpal Vs. Amit and others) and order dated 02.07.2015 passed by the respondent no. 2 in Case No. D20150955003 (State Vs. Amit & others).

It is contended by learned counsel for the petitioner that he had purchased the land in dispute on 30.06.2007 by a registered sale-deed and he belongs to Scheduled Caste category, after obtaining the requisite permission under Section 157 AA of U.P.Z.A. & L.R. Act on 20.06.2007 from the Sub Divisional Officer, a copy of permission has been brought on record as annexure No. 1 to the writ petition.

It appears that after a lapse of seven years on an application of panel lawyer of Gaon Sabha moved before the Naib Tehsildar, Nagar, Muzaffarnagar for recalling the order passed under Section 34 of Land Revenue Act, on the very next date, without issuing any notice to the petitioner, Naib Tehsildar on 19.12.2014 recalled the order of mutation and restored the case

to its original number. The Collector, Muzaffarnagar on 02.07.2015 held that the petitioner has lost rights over the land and land is vested in the Gaon Sabha. Against the said order, a revision was preferred under Section 333 of U.P.Z.A. & L.R. Act before the Additional Commissioner, Saharanpur Division, Saharanpur, on the ground that the order passed by Naib Tehsildar was an ex-parte order and petitioner had purchased the land in dispute after approval granted by the revenue authorities under Section 157 AA and the order of mutation could have been passed only after hearing the petitioner. The revisional court while passing the order impugned rejected the revision without considering the grounds so raised by the petitioner.

Sri K.K. Mani, learned counsel appearing for Gaon Sabha, tried to justify the action of Additional Commissioner as well as revenue authorities in expunging the name of petitioner as liberty was granted to the Gaon Sabha in case of violation of Section 157 AA by the petitioner though he is a member of Scheduled Caste category but was not residing in the same village.

Learned Standing Counsel for the State respondents has also endorsed the arguments, so made by Sri Mani.

I have heard learned counsel for the parties and perused the material on record.

It is not in dispute that the land was purchased by the petitioner after the approval was granted by the Sub Divisional Officer in the year 2007. His name was mutated in the revenue records and after lapse of seven years on an application of panel lawyer of Gaon Sabha on 18.12.2014, the Naib Tehsildar proceeded to recall the order of mutation on 19.12.2014 without issuing

notice or affording opportunity of hearing to the petitioner. The Collector as well as Additional Commissioner also did not consider the fact that the proceedings initiated against the petitioner was in gross violation of principle of natural justice and further the said sale-deed was executed after the due permission accorded by concerned Sub Divisional Officer. Such blind orders passed by the district authorities shakes the conscious of this Court as the action of these officers are creating harassment to the poor residents of the State, on one hand permission was granted by a district official and after lapse of seven years the other official had withdrawn the permission without affording any opportunity to the concerned party.

It is not expected from the officers like Collector and Additional Commissioner to blindly follow the action of junior staff who are there to harass the common and poor people of the State. In this particular case the sorry state of affairs of State Government surfaces as on application moved for recalling an order of the year 2007 on 18.12.2014, the said order is withdrawn/recalled on 19.12.2014. The right which has accrued to the petitioner way back in the year 2007 was withdrawn by one stroke of pen by the said officer.

In view of the above, the orders dated 05.02.2020 passed by the respondent no. 1 in Case No. 167 of 2020 (Rajpal Vs. Amit and others) and order dated 02.07.2015 passed by the respondent no. 2 in Case No. D20150955003 (State Vs. Amit & others) are hereby quashed. The matter is remitted to the concerned Naib Tehsildar who shall pass order afresh, in accordance with law, after hearing all the parties concerned. In the meantime, the Collector Muzaffarnagar is directed to initiate the inquiry against the then Naib Tehsildar, who was responsible for such

an act.

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With the aforesaid observations and directions, writ petition stands partly allowed.

Order Date :-20.7.2021

Shekhar