

Court No. - 51

Case :- WRIT - B No. - 2193 of 2022

Petitioner :- Brishbhan Singh And Another

Respondent :- Deputy Director Of Consolidation And 8 Others

Counsel for Petitioner :- Kamini Pandey (Dubey), Anand
Kumar Pandey

Counsel for Respondent :- CSC, Abhishek Kumar
Yadav, Kamal Singh

Hon'ble Dinesh Pathak, J.

In ref:- Civil Misc. Amendment Application No.2 of 2022

Instant amendment application has been moved to correct the array of the parties of the instant writ petition.

Learned counsel for the respondents has no objection to the aforesaid amendment application.

Accordingly, the amendment application is allowed.

Counsel for the petitioners is permitted to amend the cause title of the present writ petition as prayed for during the course of the day.

Order on Petition

Grievance of the petitioners is that the consolidation courts have illegally discarded the claim of Shanti Bai being a daughter of recorded tenure holder.

It is submitted that the land in question belongs to Nanha-Smt. Shanti Bai being a daughter of Nanha has filed suit under Section 229-B of U.P.Z.A. & L.R. Act, which was decreed vide judgment dated 5.2.1987. During the pendency of appeal, the consolidation proceedings intervened, consequently suit abated. After decree dated 5.2.1987, Shanti Bai has executed a registered sale deed dated 17.2.1987 in favour of the present petitioners, who have filed objection under Section 9-A(2) of U.P.C.H. Act. The Consolidation Officer has allowed the objection. On appeal being filed on behalf of the contesting respondents, same was allowed by Settlement Officer of Consolidation. Having been aggrieved, petitioners have filed revision which was dismissed affirming the order passed by the Settlement Officer of Consolidation. It is submitted that during this period suit for cancellation of the sale deed dated 17.2.1987 was dismissed by the judgment dated 30.3.1993. It is further

submitted that the claim of Shanti Bai being a daughter of recorded tenure holder has not been denied by the contesting respondents. The right and title of contesting respondent has been recognized only on the basis of long standing entry which came to in existence under the scheme of C.L.R.D. in 1366 Fasli.

The matter requires consideration.

Respondents No. 1, 2, 3 and 9 are represented through learned standing counsel. Counsel for the caveator-respondent no.4 is also present.

Issue notice to respondents No. 5 to 8 returnable at an early date fixing 08.12.2022.

In the meantime, both the parties shall exchange their respective affidavits in the matter.

Till the next date of listing, parties are directed not to create any third party right over the property in question.

Order Date :- 11.10.2022

Mini