



2026:AHC:21617

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 2133 of 2024

Smt Sitadevi @ Kallo And 2 Others

.....Petitioner(s)

Versus

Board Of Revenue And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Harsh Kumar Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Harsh Kumar Mishra, learned counsel for the petitioner and Sri Rajesh Kumar Tiwari, learned Addl. C.S.C. for the state-respondents. No one appears on behalf of the private respondents.

2. Brief facts of the case are that Moti Lal, father of petitioner nos.1 & 2 died in the year 1982, leaving behind his widow Smt. Rajwanti & three daughters, namely, Smt. Phoolkali @ Bhuwari (mother of petitioner no.3), Smt. Sita Devi @ Kallo (petitioner no.1) and Smt. Sonkali @ Kunta (petitioner no.2). The name of Smt. Rajwanti was mutated on the basis of P.A.11 vide order dated 23.1.1983/13.2.1983 in respect to the plots situated in village- Duduhi & Andawa. Smt Rajwanti executed a registered will- deed on 21.10.1999 in favour of her three daughters, namely, Smt. Phool Kali @ Bhuwari, Smt. Sita Devi @ Kallo and Smt. Sonkali @ Kunta. A proceeding under Section 34 of U.P. Land Revenue Act, 1901 was initiated on 6.12.1999 by Lal Bahadur (Dewar of Rajwanti) on the basis of unregistered Will-Deed dated 25.1.1981, alleged to be executed by Moti Lal. In the aforementioned proceeding, claim was set up by the petitioners on the basis of registered Will-Deed dated 21.10.1999. Tehsildar, Phoolpur ultimately after remand order dated 8.11.2013, decided the matter vide order dated 5.8.2015, directing to record the name of Rajwanti, thereafter, petitioners on the basis of registered Will-deed dated 21.10.1999 and claim of Lal Bahadur set up on the basis of unregistered Will-Deed dated 25.1.1981, has been refused. Against the order of Tehsildar dated 5.8.2015, appeal under Section 210 of U.P. Land Revenue Act, 1901 was filed by respondent nos.3 &

4 which was dismissed vide order dated 19.2.2018. Against the order dated 19.2.2018, restoration application dated 5.3.218 was filed by respondent no.4, namely, Brahmadeen before Commissioner, which was heard and dismissed by the sub Divisional Officer vide order dated 11.8.2021. Against the order dated 11.8.2021, revision was filed by the legal heirs of Lal Bahadur which was heard & dismissed vide order dated 17.9.2022. Against the order of Additional Commissioner dated 17.9.2022 as well as orders of Tehsildar and Sub Divisional Officer, revision under Section 219 of U.P. Land Revenue Act, 1901 was filed by respondent no.3 in the year 2023 and the Board of Revenue has granted interim order on 23.4.2022 in the time barred revision. Hence this writ petition for the following reliefs:

"A. Issue a writ of certiorari, quashing the impugned order dated 23.04.2024 (Annexure no. 12) passed by the Board of Revenue, Uttar Pradesh, Prayagraj in Revision no. 1812 of 2023/Prayagraj (Computerized Case No. AL20230203001812), Shyam Datt Mishra versus Sita Devi and others pending before Board of Revenue, Uttar Pradesh, Prayagraj insofar as grant of injunction order to the effect that parties shall maintain status quo is concerned.

B. Issue a writ of certiorari, quashing the entire proceedings of Revision no. 1812 of 2023/Prayagraj (Computerized Case No. AL20230203001812), Shyam Datt Mishra versus Sita Devi and others pending before Board of Revenue, Uttar Pradesh, Prayagraj."

3. This Court entertained the matter on 17.5.2024 and stayed the operation of the order dated 23.4.2024 passed by the Board of Revenue. Interim order dated 17.5.2024 passed by this Court runs as follows:

"1. Heard learned counsel for the parties and perused the record.

2. This petition has been filed for the following relief:

"A. Issue a writ of certiorari quashing the impugned order dated 23.04.2024 (Annexure no. 12) passed by the Board of Revenue, Uttar Pradesh, Prayagraj in Revision no. 1812 of

2023/Prayagraj computerised case no. AL20230203001812, Shyam Datt Mishra versus Sita Devi and others pending before Board of Revenue, Uttar Pradesh, Prayagraj insofar as grant of injunction order to the effect that parties shall maintain status quo in concerned."

3. Brief facts of the case are that one Moti Lal was recorded tenure holder of the property in dispute. Motil Lal died in the year 1982 and after his death his wife Smt. Rajwanti was recorded in the revenue records. Smt. Rajwanti who was the mother of the petitioner executed a will in favour of the petitioners on 21.10.1999. On 06.12.1999, Lal Bahadur (brother of Moti Lal) filed a mutation application on the basis of an unregistered will dated 25.01.1981 allegedly executed by Moti Lal. The application filed by the Lal Bahadur was rejected ultimately by the Tehsildar on 05.08.2015. In the meantime, Lal Bahadur executed a sale deed in favour of the respondent no. 3. The heirs of Lal Bahadur as well as the purchasers respondent no. 3 filed an appeal against the order dated 05.08.2015 which was ultimately dismissed on 19.02.2018. Against the appellate order dated 19.02.2018, a revision was filed by the heirs of Lal Bahadur before the Commissioner which was rejected by order dated 17.09.2022. After the dismissal of the revision, a revision has been filed by the respondent no. 3 against the order dated 19.02.2018 on 14.06.2023 after a lapse of five years. The petitioner appeared before the Board of Revenue and filed his objections on merits as well as that the revision is barred by time and without considering the objections of the petitioner, an order dated 23.04.2024 has been passed by the Board of Revenue directing the parties to maintain status quo, which is order impugned in the present writ petition.

4. Contention of the learned counsel for the petitioner is that once a revision filed by the predecessor in interest of respondent no. 3 has already been dismissed, the second revision was not maintainable. It is further contended by learned counsel for the petitioner that the revision has been filed by the respondent no. 3 after a lapse of five years and that too even without an application for condonation of delay. In his objections, the petitioner has specifically taken a ground that the revision is barred by limitation but without

considering the objections of the petitioner, an interim order has been passed without condoning the delay in filing the revision.

5. Matter requires consideration.

6. Respondent nos. 1 & 2 represented by learned Standing Counsel.

7. Issue notice to respondent no. 3 & 4. Steps be taken within a week.

8. List on the date fixed in the notice.

9. In the meantime, the parties may exchange their affidavits.

10. Till the next date of listing, the operation and effect of order dated 23.04.2024 passed by Board of Revenue, shall remain stayed."

4. In pursuance of the order of this Court dated 17.5.2024, notices were issued to the private respondent nos.3 & 4. As per office report, service is deemed to be sufficient upon respondent nos.3 & 4.

5. Learned counsel for the petitioners submitted that the petitioners were rightly ordered to be recorded in the proceeding under Section 34 of U.P. Land Revenue Act, 1901 and appeal filed against the order of Tahsildar was dismissed. He further submitted that the first revision filed by legal heirs of Lal Bahadur was dismissed. He further submitted that another revision was filed by respondent nos.3 & 4 which was time barred and Board of Revenue has granted interim order without passing any order for condonation of delay. He further submitted that the impugned order, granting interim protection in time barred proceeding is illegal. He further submitted that the impugned order granting interim protection should be set aside and appropriate direction be issued to Board of Revenue to proceed in the time-barred revision in proper manner.

6. Mr. Rajesh Kumar Tiwari, learned Additional Chief Standing Counsel for the State-respondents submitted that no interference is required against the interim order passed in the revision. He further submitted that the petitioners should appear before the Board of Revenue and contest the proceeding of revision in accordance with

law.

7. I have considered the arguments advanced by learned counsel for the petitioners, learned standing counsel for the state and perused the records.

8. There is no dispute about the fact that the petitioners were ordered to be recorded on the basis of registered Will-Deed and order of mutation has been maintained in appeal by the Sub-Divisional Officer as well as in revision by the Additional Commissioner. There is also no dispute about the fact that one revision filed by legal heirs of Lal Bahadur was dismissed but in another revision filed by vendees of Lal Bahadur, interim protection has been granted without passing any order for condonation of delay in filing the revision.

9. It is well settled principle of law that interim protection cannot be granted in the time barred proceeding unless proper order is passed for condonation of delay.

10. Maintainability of revision at the instance of respondent nos. 3 & 4 shall be examined in proper manner as revision filed by legal heirs of Lal Bahadur was already dismissed by Board of Revenue.

11. No counter affidavit has been filed by the private respondents in spite of the notice issue to them on 17.5.2024, as such, there is no option except to decide the instant writ petition on merit on the basis of averment made in the writ petition as pending proceeding is to be decided by the Board of Revenue in accordance with law.

12. Considering the entire facts and circumstances of the case, the part of the impugned order dated 23.4.2024 passed by the Board of Revenue, U.P. at Prayagraj by which interim injunction for maintaining status quo has been granted, is liable to be set aside and the same is hereby set aside.

13. **The writ petition is allowed.** The Board of Revenue, U.P. at Prayagraj is directed to decide the revision, considering the delay condonation matter as well as maintainability issue, in accordance with law, as expeditiously as possible, preferably within a period of three months from the date of production of the certified copy of the order, after affording proper opportunity of hearing to the parties concerned.

January 30, 2026
C.Prakash

(Chandra Kumar Rai,J.)