

(2023) 11 AHC CK 0022

Allahabad High Court, Lucknow Bench

Case No: Matters Under Article 227 No. - 5755 Of 2023

Sumitra Devi

APPELLANT

Vs

State Of U.P. Thru. Prin. Secy.
Revenue Deptt. Lucknow And 4
Others

RESPONDENT

Date of Decision: Nov. 8, 2023

Acts Referred:

- U.P. Land Revenue Code, 2006 - Section 34

Hon'ble Judges: Saurabh Lavania, J

Bench: Single Bench

Advocate: Ravindra Kumar Pandey

Final Decision: Disposed Of

Judgement

Saurabh Lavania, J

1. Heard learned counsel for the petitioners and Shri Hemant Kumar Pandey, learned Standing Counsel for State-respondents.
2. In view of order proposed to be passed, issuance of notice to the private-respondent(s) is hereby dispensed with.
3. Present petition has been filed for following main reliefs:

"Issue an order or direction against opposite party no.2 to decide and conclude the Mutation Proceedings Case No.7587 of 2022, (Computerized Case No. T202202570107587 under section 34 of U.P. Land Revenue Code, 2006 "Smt. Sumitra Devi Vs. Ram Padarath and others" pending in the Court of Tehsildar (Judicial), Tehsil - Kunda, District - Pratapgarh, within a period as fixed by this Hon'ble Court."

4. While considering the prayer sought, this Court, from the order sheet of the case in issue, noticed that on several dates, orders were not scribed, as required under the law and for stereotyped order(s) on order sheet fixing next date the rubber stamp seal was used.

5. It also transpires from the record that initially mutation case was filed in the year 2012 and thereafter, the same was dismissed for want of prosecution on 24.01.2018 and for the purpose of restoration of the case, the application for restoration was filed on 10.02.2018, however, neither the said application nor the case in issue has been decided till date.

6. As per law the rubber stamp seal cannot be used for passing the orders and Revenue Courts are not supposed to pass the order by using the rubber stamp seal as per observation made by this Court in the judgment passed in the case of Hanuman Prasad Vs. State of U.P. and Ors. reported in MANU/UP/0405/2006. Relevant paragraphs of the same are extracted herein-under:

"8. Before proceeding further, provisions of the U.P. Revenue Courts Manual may be usefully scanned. Rule 30 of the Manual clearly prescribes that order-sheet has to be written by the Presiding Officer or by an officer of the Court and further it has to be signed by Presiding Officer. The Note to the aforesaid Rule envisages that an officer should be appointed in respect of each Court to sign the order fixing the adjourned date under Rule 32, in the absence of the Presiding Officer due to sudden illness or some other such cause. Again, Rule 32 of the Manual envisages that order affixing dates or directing anything to be done by parties should be signed by parties or their pleaders. The next rule relevant for the purposes of the present case is Rule 49 of the Manual which is abstracted below:

A cause list (B.R. Form No. 253/369 (Hindustani) shall be prepared in every Court either by the Presiding Officer personally or under his direct personal supervision, every fortnight, or at such shorter intervals as may be convenient, showing (a) the date fixed for the hearing of each case, (b) the number and description of the case, (c) the names of the parties, (d) the purpose for which the date has been fixed and (e) the place at which the case will be heard or if the case will be heard in camp, the place at which it will probably be heard.

Note (1).-- A course which has much to commend it is setting apart of certain days in the week exclusively for judicial work. Officers must decide themselves whether to adopt this arrangement or not but they will do well to remember that there are obvious advantages in fixing and notifying certain days on which the public will have a reasonable certainty of finding them in a position to take up cases at regular hours.

Note (2).--The requirements of the note below Rule 27 should be kept in view while drawing up the cause list.

9. In this connection Rule 27 of the Manual may also be noticed. It deals with adjournments and postulates that when the hearing of evidence has once begun, the hearing of the suit or application should be continued from day to day until all the witnesses in attendance have been examined unless the Court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded. Note to Rule 27 stipulates that in drawing up the cause list under Rule 49, cases should be placed with due regard to their complexity to avoid break in the continuity of hearing and adjournments, once a case is started. Rule 28 of the Manual provides instructions to be followed in dealing with adjournments and therefore, It would be apt to quote the same below:

28. Instructions to be followed in dealing with adjournments.--In dealing with applications for adjournments the Courts shall be guided by the following instructions;

(1) A date for hearing once fixed shall, so far as practicable be strictly adhered to and no adjournment granted except for good cause. In no case when one of the parties is ready to proceed should an adjournment be granted at the request of the opposite party ; except on condition that a sum commensurate with the costs which, In the opinion of the Court, the party ready to proceed will have to incur owing to the adjournment, be paid as and when directed by the Court to the party ready to proceed, and bear his cost in any event. In all cases when an adjournment is granted the Court shall record a proceeding stating his reasons for granting that adjournment and such proceeding shall be filed with the record.

(2) The mere fact that a party is through carelessness or negligence, not ready to go on with a suit, is not Itself a good cause for adjournment.

(3) The rules regarding the filing of documents and exhibits should be strictly observed and parties have no right to ask for adjournment in order to obtain copies of documents as by the exercise of diligence they could have procured them in time.

(4) A hearing should not be adjourned to call for a written report from officer of the Court unless such report is absolutely necessary.

Rule 29 of the Manual deals with particulars to be written on order sheet and therefore it may usefully be quoted below.

29. Particulars to be written on order sheet.--The order-sheet (paragraph 1202, Revenue Manual) shall contain a note of every order made in the suit or case, and shall show, the date of and the proceedings at every hearing. It shall show, amongst other matters the names of the parties present or of their counsel, if they are represented by counsel, or of their duly authorized agents and the

dates on which the plaint and written statement were filed, issues were recorded, or amended, witnesses examined, and the names of such witnesses, of the delivery of judgments, of the signing of the decree, and of any application for review of judgment or amendment of the decree. It shall also contain a note of every proceeding such as the reading of the deposition of a witness examined by commission; the reading of a commission's report, and of the fact of any objection being made thereto and if witnesses are in attendance when a case is adjourned, the fact shall be noted."

7. Having considered the aforesaid facts and circumstances of the case, the petition is disposed of in following terms:

i. Opposite party no.2/Tehsildar (Judicial), Tehsil- Kunda, District - Pratapgarh is directed to conclude the proceedings within a period of three months and for this purpose, he shall avoid unnecessary adjournments.

ii. Board of Revenue, Uttar Pradesh is hereby directed to apprise the revenue courts, the manner in which the order sheet should be drawn.

8. It is made clear that the Court has not examined the case of either of the parties on merits and the authority/court concerned shall be free to decide the matter strictly in accordance with law.

9. Senior Registrar of this Court shall communicate this order to the Chairman, Board of Revenue, Uttar Pradesh for compliance.