

Court No. - 9

Case :- WRIT - B No. - 185 of 2019

Petitioner :- Digambar Singh

Respondent :- Depty Director Consolidation Aligarh And 3 Others

Counsel for Petitioner :- Paritosh Sukla

Counsel for Respondent :- C.S.C.

Hon'ble Anjani Kumar Mishra,J.

Heard Shri Rakesh Pande holding brief of Shri Paritosh Shukla, the counsel who has filed the instant writ petition.

This petition appears to be a title dispute arising out an objection under Section 9A(2) of the U.P. Consolidation of Holdings Act, which appears to have been filed by the State against Vimla Devi.

The petition came up for admission before this Court on 24.01.2019, when the following order was passed -

" Prima-facie, from the report of the stamp report, it appears that counsel for the petitioner has made corrections in the prayer clause after the petition had been got, reported.

Sri Dinesh Kumar Mishra, who has appeared in the matter states that counsel for the petitioner is out of station and he is not aware of any fact in this regard.

Put up as fresh on 28.01.2019.

Counsel for the petitioner to explain the above.

Call for a report from the Stamp Reporter in this regard as well."

When the matter again came up, the Court perused the Stamp Reporter's report dated 28.01.2019.

This report states that " It appears the counsel concerned has tempered the date of orders in the relief clause after reporting, but paragraph no.3 of the writ petition is as it is."

Today, when the matter came up initially before lunch, a mention was made that counsel for the petitioner is not present and the writ petition be dismissed as not pressed. On the insistence of the Court that it would like to hear Counsel for the petitioner, himself, the matter has been taken up after lunch, when Shri Rakesh Pande has appeared. Shri Paritosh Shukla, who has filed writ petition is also present.

The submission of Shri Rakesh Pande is that the normal practice is that counsel do not peruse the report of the Stamp Reporter.

It is also submitted that in the case at hand, the modifications in the relief clause have been made by the Clerk of Shri Paritosh Shukla and that corrections made are bonafide. They had not been made with the object of obtaining any undue benefit. There was no dishonest intention in making the corrections in the relief clause after the petition had been reported. The clerk made the corrections without understanding the gravity of the action.

He also submits that the writ petition even after the corrections made after the petition had been reported, would still render the writ petition defective. Therefore, it be dismissed, granting liberty to the petitioner to file a proper writ petition.

It is also repeatedly submitted that this Court may take a lenient view in the matter and pardon the counsel for the petition for the mistake committed at his end because the mistake is a bonafide mistake, due to inexperience.

The CIS Software, which has been implemented in the High Court is not being followed completely. This software is designed in such a manner that once a petition is presented to the Stamp Reporter for reporting, it is not to be returned back to the counsel or his clerk. Any defect pointed out by the Stamp Reporter is to be removed in the Office of the Stamp Reporter or at any other place while the file remains in the custody of the High Court.

This provision has not being implemented in the High Court due to paucity of space in the office of the Stamp Reporter.

However, from the facts noticed above, it is clear that it is very dangerous to return a file to the counsel after defects have been pointed out by the Stamp Reporter.

This Court is also constrained to observe that once a petition is resubmitted, after allegedly removing the defects, cursory reports are being made by the Stamp Reporter that all the defect(s) stands removed. This is not so.

In case, the petition had been carefully scrutinized by the Stamp Reporter on its being re-filed after removing the defects, there still existed defects had should been pointed out.

The Stamp Reporters' report dated 18.01.2019 reports that on 08.03.2018, the petition suffers from latches 316 days.

After the correction in the relief clause of the writ petition, the orders under challenge are those dated 18.06.2015 and 18.06.2018. The appellate order is stated to be passed on 18.06.2018 as appears from the bare perusal of the correction made in the relief clause. A revision is filed against the appellate order. The revisional order impugned is dated 18.06.2015 as per the correction made in the relief clause. The revisional order cannot be three years prior in time to the appellate order.

Moreover, if the latches are to be calculated from the date of the revisional order, which is transcribed as 18.06.2015, the report that the petition on 08.03.2018 suffers from latches of 316 days becomes manifestly, incorrect.

On merits, this Court in view of the submissions made by Shri Rakesh Pande is not proposing any action against the counsel for the petitioner Shri Paritosh Shukla or his clerk, taking a lenient view in the matter and is only dismissing the writ petition as defective, granting liberty to file a fresh and proper writ petition.

Further and in the above noted facts and circumstances, this Court directs that once a petition is submitted for reporting, even if it contains defects, it shall not be returned to any counsel or his clerk. The file shall thereafter be retained in the custody of the High Court. Any removal of defects pointed out will have to be effected by counsel at the appropriate place to be indicated by Registrar General.

The Stamp Reporter is directed to process the files as provided under CIS i.e. there shall be centralized filing of cases and the defects shall be recorded in CIS itself, as also when a file is not found to suffer from any defect.

For this purpose, the Registrar General is directed to implement the above directions on or before 8 April 2019 after identifying and earmarking the place where Counsel shall have to remove the defects pointed out by the Stamp Reporter.

Let a copy of this order be placed before the Registrar General within 24 Hours for its strict compliance.

Subject to the above, this writ petition is dismissed as not pressed with liberty to the petitioner to

file a fresh writ petition.

Order Date :- 13.3.2019 / RKM