

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 12700 of 2019

Petitioner :- Siddhartha Shukla

Respondent :- State Of U.P. Thru Chief Secretary And Anr.

Counsel for Petitioner :- Satya Narain Shukla, Sridhar Awasthi

Counsel for Respondent :- C.S.C., Adv Gen, Sarvendra Kumar Gupta

Hon'ble Devendra Kumar Upadhyaya, J.

Hon'ble Om Prakash Shukla, J.

The arguments on behalf of the petitioner has already been concluded.

Having regard to the nature of issues raised, the Court had called upon the learned Advocate General of State of Uttar Pradesh to address the Court on the next date. The Court vide its order dated 23.03.2023 also called upon members of the Bar to address the Court with the request that the members of the Bar intending to argue the matter shall furnish proposition of law which they intend to argue, in writing. After 23.03.2023, the matter though has been listed on several occasions, however, on account of non-availability of learned Advocate General, it could not be argued on behalf of the State.

In the aforesaid view, Shri Satya Narain Shukla, learned counsel representing the petitioner has submitted that since hearing of this matter is being avoided on behalf of the State, the Court may proceed to grant interim relief as prayed for in this case.

Shri Shukla has placed reliance upon two judgments of Hon'ble Supreme Court, namely, **Laxmikant V. Patel vs. Chetanbhai Shah and another; (2002) 3 SCC 65** and **Deoraj vs. State of Maharashtra; AIR 2004 Supreme Court 1975**. On the basis of

VERDICTUM.IN

aforesaid judgments it has been argued that in the instant case every day thousands and thousands of women are being deprived of their right of inheritance in the agricultural property because of the provisions contained in Sections 108, 109 and 110 of the U.P. Revenue Code, 2006 which apparently are unconstitutional being violative of Article 14, 15 and 21 of the Constitution of India. In his submissions, Shri Shukla submits that operation of these provisions which are under challenge may be stayed to check the continued violation of rights of women in the society to succeed/ inherit the agricultural property.

Learned State Counsel, however, opposed the prayer for grant of interim relief stating that in case any such relief is granted, that may amount to finally allowing the writ petition itself and further that it is settled principle of law that in a situation where constitutional validity of any legislation is under challenge, no interim relief is to be granted.

We have considered the submissions made by learned counsel for the parties.

U.P. Revenue Code, 2006 has come into force with effect from 16.02.2016 and infact it has replaced the erstwhile legislation on the subject, namely, U.P. Zamindari Abolition and Land Reform Act, 1950. The provisions contained in U.P. Zamindari Abolition and Land Reform Act, 1950 *inter alia* provided for inheritance/ succession in the agricultural property and with certain minor changes the provisions contained in Sections 171 to 174 of U.P. Zamindari Abolition and Land Reform Act, 1950 are present in the new enactment, namely, U.P. Revenue Code, 2006 as well. Thus, so far as the line of succession/ inheritance in the agricultural property in the State of Uttar Pradesh is concerned, the same has continued with some minor changes

VERDICTUM.IN

here and there since the year 1950 and as such, unless and until the provisions which have been sought to be declared ultra vires the Constitution in this petition are struck down, in our opinion, grant of interim relief would be impermissible.

Even otherwise, the issue raised in this petition has a large and widespread and even all pervasive implication throughout the State of Uttar Pradesh and thus, the matter needs to be heard finally. As observed above, considering the significance attached to the issue involved in this petition, the Court had requested the learned members of the Bar as well to address the Court.

In these facts and circumstances, the prayer for grant of interim relief, in our opinion, cannot be acceded to.

We, however, call upon once again the learned members of Bar to address the Court in the matter in terms of the order dated 23.03.2023. We also request the learned Advocate General to address the Court in this matter.

List this matter on 07.07.2023.

Order Date :- 23.5.2023

Arnima