

Court No. - 51

Case :- WRIT - C No. - 9292 of 2023

Petitioner :- Rakesh

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Rajiv Kumar Mishra, Anand Kumar Mishra

Counsel for Respondent :- C.S.C., Rameshwar Prasad Shukla

Hon'ble Chandra Kumar Rai, J.

1. Reply dated 25.10.2023 filed on behalf of the petitioner to the instruction filed by the State is taken on record.

2. Heard learned counsel for the petitioner, learned Standing Counsel for the State-respondents and Mr. Rameshwar Prasad Shukla, learned Additional Chief Standing Counsel for the State-respondents.

3. The instant petition has been filed for the following reliefs:

"i. to issue ad-interim mandamus commanding the respondent no.2 to decide expeditiously the application dated 2.8.2022 pending before respondent no.2 (Annexure No.7 to the writ petition) in accordance with law within stipulated period as this Hon'ble Court may deem fit and proper.

ii. to direct the respondents to vacate the land of pond (tal) having Gata no.75 (old no.96) village- Bhikhampur, Post- Babu Ki Khujari, Mehnagar, from the illegal possessor accordance with law within stipulated period as this Hon'ble Court may deem fit and proper."

4. Learned counsel for the petitioner submitted that the certain persons are recorded over the plot in dispute which is public utility land. He further submitted that the State has placed the instruction mentioning that two cases are pending in respect to the plots in dispute. The particular of the cases are as follows:

i. Case No.T202315060502672 (Report vs. Shivmurat and Others).

ii. Case No.D201815060000765 (Report vs. Bechan and Others).

Learned counsel for the petitioner further submitted that the proceeding under Section 128 of U.P. Revenue Code, 2006 is pending for the last five years and proceeding under Section 38 (1) of U.P. Revenue Code, 2006 is pending since 2023 and unauthorized occupants are enjoying the possession of the public utility land without any basis.

5. Since the certain persons are recorded over the plot in dispute and the

proceeding under Section 128 of U.P. Revenue Code, 2006 as well as under Section 38 (1) of U.P. Revenue Code, 2006 have been initiated and the same are pending, as such, unless the proceedings are concluded no steps can be taken for eviction of the persons who are recorded over the plot in dispute.

6. Considering the entire facts and circumstances, the instant writ petition is finally ***disposed of*** directing respondent no.3- Additional Collector, Pargana- Beladaulatpur, District- Azamgarh to conclude the proceedings of Case No. T202315060502672 (Report vs. Shivmurat and Others), under Sections 38 (1) of U.P. Revenue Code, 2006 and Case No.D201815060000765 (Report vs. Bechan and Others), under Section 128 of U.P. Revenue Code, 2006 in accordance with law after affording proper opportunity of hearing to both parties, expeditiously preferably within a period of three months from the date of production of certified copy of this order before him.

7. It is made clear that this Court has not expressed any opinion on the merits of the case.

Order Date :- 3.11.2023

Rameez