

Court No. - 52

Case :- WRIT - C No. - 8860 of 2021

Petitioner :- Mahendra Singh

Respondent :- Additional Commissioner And 3 Others

Counsel for Petitioner :- Ram Chandra Kushwaha

Counsel for Respondent :- C.S.C.,Kaushal Kishore Mani

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Ram Chandra Kushwaha, learned counsel for the petitioner, learned Standing counsel appearing for the respondent Nos. 1 to 3 and Sri Kaushal Kishore Mani, learned counsel for the respondent No.4.

2. The factual matrix of the matter derives that proceedings under Section 67 of the U.P. Revenue Code, 2006 has been initiated against the petitioner and other, wherein order dated 01.05.2018 has been passed by the respondent No.3, through which the petitioner with others have been determined as illegal encroachers who were having possession over the land which is solely belongs to Gram Sabha. The petitioner preferred the appeal under Section 67(5) of U.P. Revenue Code, 2006 before the respondent no.2, but the same was also dismissed vide order dated 08.10.2018, wherein it has been mentioned by the respondent No.2 while passing the order dated 08.10.2018 that entire proceeding has been carried out in strict compliance of law, after demarcation only it has been determined that certain portion of the land has been encroached and illegally possessed by the petitioner and others themselves. While preferring the present petition, learned counsel for the petitioner assailed both the orders i.e. order dated 01.05.2018 and 08.10.2018, passed in proceeding to place before the respondent

Nos. 2 and 3.

3. While preferring the present petition, both the order dated 01.05.2018 and 08.10.2018 were challenged on several other grounds inter alia that the entire exercise has been initiated and culminated on the spot in question and only on the basis of false statements mentioned that Khasra No. 63-M area 0.005 hectare which is recorded in the revenue record as land of 'Johad' which is situated at village Ismailpur Pargana Tehsil and District Saharanpur and on which illegal possession by the petitioner having made before from 1424 fasli. Learned counsel for the petitioner also submitted that without spot verification or physical demarcation no land can be ascertained as government land.

4. Per contra, learned Standing Counsel appearing on behalf of the State-respondents vehemently opposed the prayer as made in the petition and also rebutted the stand taken up by the learned counsel for the petitioner by way of supporting the stand taken up by the responding authorities while determining the issue that petitioner is illegal encroacher over the certain portion of the land pertains to be utility for which legal action has been taken up and the petitioner were ousted from the said area.

5. After considering the rival submissions extended by both the parties, there is hardly any procedural error reflected by the learned counsel for the petitioner while passing the order which impugned the present petition, moreover both the orders through which the petitioner is aggrieved were passed after affording full opportunity of hearing to the petitioner and as such there is hardly any cause of action arises in favour of the petitioner to pursue the instant petition.

6. In view of aforementioned facts and circumstances of the case, there is hardly any ground available for interfering in the orders which impugned the present petition.

7. The writ petition stands **dismissed** accordingly.

Order Date :- 16.11.2023

A. Tripathi