

Court No. - 51

Case :- WRIT - C No. - 23980 of 2023

Petitioner :- Janardan Upadhyay

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Sandeep Kumar Pandey

Counsel for Respondent :- C.S.C.,Pradeep Singh

Hon'ble Chandra Kumar Rai,J.

1. Rejoinder affidavit filed on behalf of petitioner is taken on record.
2. Heard Counsel for the petitioner, Mr. Ravi Singh Parhihar, learned Standing Counsel State-respondents and Mr.Pradeep Singh, learned counsel for respondent No.6/Gram Panchayat.
- 3.The instant writ petition has been filed praying for a mandamus directing respondent No.4/ Tehsildar, Tehsil-Bhadohi, District-Bhadohi to decide the representation dated 20.6.2023 filed by the petitioner within stipulated period.
4. In compliance of the order of this Court dated 07.08.2023, instruction was placed before this Court, as such Court has ordered for filing counter affidavit by State accordingly Standing Counsel has filed counter affidavit on behalf of State-respondents and petitioner has filed his rejoinder affidavit today.
5. Leaned counsel for the petitioner submitted that petitioner is recorded owner of plot No.213 and plot No.214 is recorded as rasta class 6(2) in the revenue record. He further submitted that authorities are constructing pitch road in the bhumidhari plot of the petitioner, as such respondents be directed not to interfere in the bhumidhari plot of the petitioner in any manner and whatever construction has been made that should be removed by the State

6. Mr. Ravi Singh Parihar, learned Standing Counsel for the State-respondents on the basis of the counter affidavit filed in the writ petition submitted that plot No.214 area 0.128 hectare is recorded as rasta in the revenue record. He further submitted that kharanja road was already existing over the same and now P.W.D. department is constructing the pitch road over the same. He further submitted that petitioner's bhumidhari plot has not been affected in any manner and the building materials which were existing in the bhumidhari plot of the petitioner that has been removed. He further submitted that even the revenue team was constituted for demarcation of petitioner's plot which was made but petitioner has refused to sign the spot memo prepared by the authorities. He further submitted that no further demarcation/ inspection is required and petition is liable to be dismissed.

7. In reply, learned counsel for the petitioner submitted that fact mentioned in the instruction as well as counter affidavit are not correct. He further submitted that proper demarcation proceeding has not been taken place on the spot, as such the authorities be directed to demarcate the petitioner's bhumidhari plot and the adjacent plot, which is recorded as rasta in accordance with the provisions of U.P. Revenue Code, 2006.

8. I have considered the arguments advanced by the learned counsel for the parties and perused the record.

9. There is no dispute about the fact that plot No.213 is bhumidhari plot of the petitioner and plot No.214 is recorded as rasta in the revenue record.

10. Learned Standing Counsel for the State respondents has filed counter affidavit stating that the State-authorities have not encroached the petitioner's bhumidhari plot in any manner as

such, no interference can be made by this Court in exercises of jurisdiction under Article 226 of the Constitution of India, however, petitioner if interested in demarcation of his plot, he can initiate proper proceeding under U.P. Revenue Code, 2006.

11. Considering the facts and circumstances of the case, **the instant writ petition is finally disposed of** directing the petitioner to file appropriate application under Section 24 of U.P. Revenue Code, 2006 complying the provisions of Rule 22 of U.P. Revenue Code Rules 2016 within a period of two weeks from today, which shall be decided by Sub Divisional Officer in accordance with law expeditiously after giving opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties.

Order Date :- 31.10.2023

PS*