

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1559 of 2023

Petitioner :- Om Prakash Yadav

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Awadhesh Kumar Mishra

Counsel for Respondent :- C.S.C., Arun Kumar Bajpai, Azad Rai

Hon'ble Chandra Kumar Rai, J.

1. In compliance of order dated 20.09.2023, instruction dated 16.10.2023 has been placed before the Court by Mr. Ravi Singh Parihar, learned Standing Counsel for the State-respondents, which is taken on record.

2. Mr. Ravi Singh Parihar, learned Standing Counsel for the State-respondents on the basis of the instruction submitted that three cases registered under Section 67 (1) of U.P. Revenue Code, 2006 have been decided vide order dated 19.09.2023 for ejectment and damages in respect to the plot No.502-M. He further submitted that notice has been issued to the persons for removal of the encroachment on 16.10.2023 within a period of fifteen days, as such proper action shall be taken after 15 days in accordance with law.

3. Mr. Arun Kumar Bajpayee, learned counsel for respondent Nos.5 and 6- private respondents submitted that appeal under Section 67 (5) of U.P. Revenue Code, 2006 has been filed by respondent Nos.5 and 6 along with others against the order of Tehsildar dated 19.09.2023 before the Collector, which is pending.

4. Learned counsel for the petitioner submitted that since the order

of Tehsildar has not been stayed, as such the proper action can be taken for removal of the encroachment.

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

6. There is no dispute about the fact that order for ejectment and damages has been passed by Tehsildar on 19.09.2023. There is also no dispute about the fact that private respondents have filed appeal under Section 67 (5) of U.P. Revenue Code, 2006 before the Collector on 13.10.2023, which is pending.

7. In view of the pendency of the appeal under Section 67 (5) of U.P. Revenue Code, 2006 before the Collector against the order of Tehsildar, it will be appropriate that the pending appeal should be decided first before taking any action for removal of encroachment.

8. In view of the above facts, **the instant P.I.L. is finally disposed of** directing respondent No.2-Collector/District Magistrate, District-Fatehpur to decide the pending appeal under Section 67 (5) of U.P. Revenue Code, 2006 against the order of Tehsildar dated 19.09.2023 expeditiously preferably within a period of four months from the date of production of certified copy of this order before respondent No.2 as well as after affording proper opportunity of hearing to the parties.

Order Date :- 17.10.2023

PS*