

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1614 of 2023

Petitioner :- Sangeeta Devi

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

Counsel for Petitioner :- Krishna Kumar Mishra

Counsel for Respondent :- C.S.C.,Azad Rai

Hon'ble Chandra Kumar Rai,J.

1.In compliance of the order of this Court dated 27.09.2023 instruction dated 12.10.2023 has been placed before this Court by Mr. R.C. Srivastava, learned Additional Chief Standing Counsel for the State-respondents which is taken on record.

2.Mr. R. C. Srivastava, learned Additional Chief Standing Counsel for the State-respondents on the basis of instruction dated 12.10.2023, submitted that plot No.253/539 area 0.0870 hectare is recorded as pond in clause-6 of the revenue record. He further submitted that revenue team was constituted and inspection was conducted in respect to the plot No.253/539 and it has been found that there is no encroachment over the pond in question. He further submitted that petitioner is sitting Pradhan of the village in question and husband of the petitioner namely Ajay Kumar Bhartiya was present when the inspection was conducted. He further submitted that husband of the petitioner was satisfied and signed the documents prepared by the authorities. He further submitted that there is no encroachment over the pond land, as such the instant P.I.L.

which has been filed by the petitioner being, sitting pradhan is misconceived and is liable to be dismissed with cost against the petitioner. He further submitted that petition has been filed by the pradhan in the personal capacity through private counsel, which is violation of the provisions contained under Section 72 of U.P. Revenue Code, 2006.

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

4. There is no dispute about the fact that plot in question is recorded as pond.

5. The instruction send by the Sub-Divisional Officer, Karchhana, Prayagraj will be relevant, which is as follows:

" माननीय उच्च न्यायालय इलाहाबाद में योजित जनहित याचिका संख्या **1614/2023** संगीता देवी बनाम स्टेट ऑफ यू०पी० व **4** अन्य में इन्स्ट्रक्शन दाखिल कराये जाने के सम्बन्ध में मा० न्यायालय द्वारा पारित आदेश दिनांक **27.09.2023** के अनुपालन में इन्स्ट्रक्शन दाखिल किये जाने हेतु आख्या निम्नवत् है:-

याची द्वारा मा० न्यायालय में उपरोक्त जनहित याचिका संख्या 1614/2023 में पारित दिनांक 27/09/2023 को निम्न आदेश पारित किया गया था।

1. Heard Mr. Krishna Kumar Mishra, learned counsel for the petitioner, Mr. S.P. Singh, learned Additional Chief Standing Counsel for the state-respondents and Mr.Azad Rai, learned counsel for the respondent-Gaon Sabha.

2. In view of the prayer made in the writ petition, instruction is required from the State.

3 Mr. S.P. Singh, learned Additional Chief Standing Counsel for the State-respondents is directed to obtain instruction in the matter within two weeks.

4. Put up this case as fresh on 13.10.2023.

उपरोक्त के सम्बन्ध में सादर अवगत कराना है कि ग्राम- कौंधियारा, परगना- अरैल, तहसील- करछना, जनपद- प्रयागराज के गाटा संख्या- 253/539 रकबा- 0.0870 हे० तालाब के खाते में श्रेणी-6(1)दर्ज है। जिसकी जांच राजस्व टीम द्वारा की गई। स्थलीय जांच में पाया गया कि गाटा संख्या-253/539 रकबा 0.0870 हे० अभिलेखीय खतौनी श्रेणी-6(1) तालाब के खाता संख्या- 330 में अभिलेख खतौनी में अंकित है। तालाब मौके पर

खाली है तथा जल से आच्छादित है। किसी प्रकार का अतिक्रमण नहीं है। जांच के समय याचिकाकर्त्ती संगीता देवी के पति अजय कुमार भारतीया उपस्थित थे, जो उक्त कार्यवाही से संतुष्ट थे तथा कार्यवृत्ति पर अपना हस्ताक्षर बनाये हैं। कार्यवृत्ति की छायाप्रति संलग्न है।

अतः मा० न्यायालय से प्रार्थना है कि जनहित याचिका संख्या- 1614/2023 निरस्त करने की कृपा करें।

ह० अप०
(राजेश कुमार श्रीवास्तव)
उपजिलाधिकारी, करछना,
प्रयागराज।"

6. In view of the fact mentioned in the instruction as well as proceeding annexed along with instruction, no interference is required in the matter.

7. Writ petition is dismissed with observation that petitioner should follow procedure as prescribed under Section 72 of U .P. Revenue Code, 2006 before initiating any legal proceeding.

Order Date :- 13.10.2023
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