

Court No. - 51

Case :- WRIT - C No. - 24503 of 2023

Petitioner :- Surendra Kumar Singh

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Ashok Kumar Yadav, Shweta Singh Attre

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble Chandra Kumar Rai, J.

1. Heard learned counsel for the petitioner, Mr. Mridul Kumar, learned Standing Counsel for the State-respondents and Mr. Sudhir Bharti, learned counsel for the Gaon Sabha.

2. The instant writ petition has been filed for mandamus directing the Sub Divisional Magistrate, Salempur, Deoria to make demarcation of Gata No. 713, 856, 811 and 718 situated at Village-Bardeeha Dalpat, Tappa-Dod, Tehsil-Salempur, District-Deoria in pursuance of the order dated 25.05.1998 and decree dated 15.11.2003 passed by respondent No. 2 as well as directing respondent No. 2 to pass appropriate order on the application of the petitioner dated 13.04.2023.

3. This Court has directed the learned Standing Counsel for the State-respondents to obtain instruction in the matter, but instruction has not been received.

4. Mr. Mridul Kumar, learned Standing Counsel and Mr. Sudhir Bharti, learned counsel for the Gaon Sabha submitted that petitioner has prayed for implementation of judgment and decree passed in the partition suit. They further submitted that petitioner should avail proper remedy before the Court who passed the decree for partition of the holdings. They next submitted that application dated 13.04.2023 filed by the petitioner demonstrate

that petitioner wants demarcation of certain plots for which the remedy has been provided under the U.P. Revenue Code, 2006 as such no interference is required in the matter in respect to relief claimed in the petition.

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

6. The perusal of averments made in the writ petition as well as application dated 13.04.2023 filed by the petitioner demonstrate that in respect to the partition of the holding, judgment/ decree has been passed by the Court concern under U.P.Z.A. & L.R. Act, as such for the implementation of the judgment and decree passed in partition suit remedy under Article 226 of Constitution of India cannot be exercised.

7. So far as demarcation of the plot is concern, petitioner should avail proper remedy before the appropriate Court under U.P. Revenue Code, 2006 rather writ petition before this Court under Article 226 of the Constitution of India.

8. The writ petition is accordingly disposed of with liberty to petitioner to initiate proper proceedings in accordance with law.

Order Date :- 26.10.2023
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