

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1701 of 2023

Petitioner :- Nanhey Sharma

Respondent :- State Of U.P. And 10 Others

Counsel for Petitioner :- Rajesh Kumar Singh

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

Hon'ble Chandra Kumar Rai,J.

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

2. On 15.09.2023 the following order was passed by this Court:

"1. Heard learned counsel for the petitioner, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State and Sri Sudhir Bharti, learned counsel for Gaon Sabha.

2. In compliance of the order of this Court dated 8.8.2023 Mr. Abhishek Shukla, learned Additional Chief Standing Counsel has placed the instruction dated 19th August, 2023 before the Court which is taken on record.

3. In the instruction dated 19th August, 2023 it is mentioned that case under Section 67 of the U.P. Revenue Code, 2006 has been registered and even the order for ejectment has been passed by Tehsildar. It is further mentioned that agaisnt the order of Tehsildar appeal under Section 67 (5) of U.P. Revenue Code, 2006 has been filed, which is pending. It is further mentioned that in respect to Plot No. 176 area 0.016 hectare no encroachment has been found.

4. Counsel for the petitioner is directed to obtain instruction with respect to the averments made in the instructions dated 19th August, 2023.

5. Put up this matter as fresh on 6th October, 2023.

6. Learned Standing Counsel shall serve copy of the instruction dated 19.8.2023 to the learned counsel for the petitioner during the course of the day."

3. In view of the fact mentioned in the instruction dated 19.08.2023, no order for removal of encroachment can be passed at this stage as three appeals under Section 67 (5) of U.P. Revenue

Code, 2006 are already pending before the Collector. Particular of appeal numbers are as follows:

(1) Case No.D202205440001050 of 2022

(2) Case No.D202205440001516 of 2022

(3) Case No.D202205440001515 of 2022

4.In view of the aforementioned facts and circumstances of the case, instant P.I.L. stands **disposed of** finally with a direction to respondent No.2/ District Magistrate, Kushinagar to consider and decide the aforementioned pending appeals in accordance with law expeditiously and preferably within a period of **three months** from the date of production of certified copy of this order after giving opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties.

Order Date :- 13.10.2023

PS*