

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 5481 of 2022

Applicant :- Dwarika Prasad

Opposite Party :- Sri Ramesh Chandra Maurya, Sdo

Counsel for Applicant :- Pranesh Kumar Mishra

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court, on 20.01.2022 while disposing of Writ-C No.35419 of 2021, had passed the following order:-

"Matter is taken up through video conferencing due to Covid-19 pandemic.

Heard learned counsel for the petitioner, learned Standing Counsel for respondent Nos.1 to 3 and Sri Azad Rai, learned counsel for respondent No.4.

The petitioner has preferred the present writ petition with the following prayer:-

"(a) issue a writ order or direction in the nature of mandamus commanding/directing the respondent No.2 Sub Divisional Officer, Tehsil Handia, District Prayagraj to comply its own order dated 28.05.2019, 10.07.2019 and 23.10.2010 passed in pursuance of the decree and order dated 10.08.2017 as passed by the court of Sub Divisional Officer, Handia Prayagraj in Case No.T201602323043840 of 2016 (Dwarika Prasad Vs. Ramesh Prasad and others) under Section 116 of U.P. Revenue Code, 2006 village Ugresenpur @ Bibipur, Pargana Mah, Tehsil Handia District Prayagraj within some stipulated period as fixed by this Hon'ble Court."

It is argued by learned counsel for the respondent that after the final order and decree dated 10.08.2017 was passed by the Sub Divisional Officer, Handia Prayagraj, 1/3 share of the property in dispute has been handed over to the petitioner.

It is argued by learned counsel for the petitioner that the private respondents are still creating inference in making boundary in respect of the land belonging to the petitioner. It is argued that in this regard, various applications were submitted by the petitioner from time to time before the Sub Divisional Officer, Handia Prayagraj/respondent No.2 and one such application dated 28.05.2019 is appended as Annexure 8 to the writ petition. It is argued that on the aforesaid application, the respondent no.2 passed the order to do needful in the matter but till date nothing has been done in the matter.

Heard learned counsel for the parties.

With the consent of learned counsel for the parties, this petition is

disposed of permitting the petitioner to submit fresh application ventilating all his grievances before the respondent no.2/Sub Divisional Officer, Handia Prayagraj along with a copy of this order within a period of three weeks from today. If such an application is filed, the respondent no.2 is directed to pass appropriate orders in accordance with law within a period of six months from the date of filing of application after providing opportunity of hearing to all the parties concerned."

From the perusal of the aforesaid order, it is clear that the writ petition was disposed of permitting the applicant to move a fresh application ventilating his grievance which was to be decided by the opposite party.

An affidavit has been filed by the opposite party, wherein in paragraphs 6 and 7, it has specifically been averred that post partition under Section 116 of the U.P. Land Revenue Code, 2006, the applicant is in the share so allotted to him, where the wheat crop and potato crop has been sown by the applicant. Further, at the time of the inspection, the applicant did not present himself on the spot and sent his son. Further, the son of the applicant has refused to put his signature when the inspection was made.

On the basis of the report and the possession determined by the Court, application moved by the applicant was decided by the opposite party on the basis that as the restoration application has already been filed in the matter before the concerned Court, there exists no dispute in the matter. The order passed by the opposite party has been brought on record as Annexure- 2 to the affidavit of compliance.

In view of the said fact as the order of the writ Court has been complied with, present contempt application is rendered infructuous and the same stands dismissed.

Order Date :- 2.12.2023

SK Goswami