

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1838 of 2023

Petitioner :- Premshankar Rastogi

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

Counsel for Petitioner :- Pradeep Kumar Keshri, Hemant Kumar

Counsel for Respondent :- C.S.C., Bhupendra Kumar Tripathi

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Sri Pradeep Kumar Keshri, learned counsel for the petitioner, Sri Anshul Nigam, learned Standing Counsel representing the respondent nos. 1 & 2, Sri Himanshu Shukla, Advocate holding brief of Sri Bhupendra Kumar Tripathi, learned counsel appearing on behalf of the respondent no. 3 / Gaon Sabha and perused the record.

2. The present petition has been filed, inter alia, for the following relief:

"(i) To issue a writ, order or direction in the nature of mandamus directing the respondent authorities to get the encroachment removed over the Araza No. 356 (admeasuring area 0.235 hectare registered as Pond/Talab) and Arazi No. 352 (admeasuring area 0.093 hectare registered as Drain/Nali) situated at Village - Timilpur, Tehsil - Sakaldiha, District Chandauli, from respondent nos. 4 & 4.

(ii) To issue a writ, order or direction in the nature of mandamus directing the respondent no. 2 to decide the Computerized Case No. T201814180304733 (Case No. 04733/2018) (Gram Sabha Vs. Ramvilash Ram), Computerized Case No. T202214180302970 (Case No. 2970/2022) (Gram Sabha Vs. Ramvilash Ram) and Computerized Case No. T202214180302971 (Case No. 2971/2022) (Gram Sabha Vs. Ashwani Kumar) pending before the learned Court of respondent no. 2, within a period of two months or within stipulated time period fixed by this Hon'ble Court."

3. The contention of the learned counsel for the petitioner is that the proceeding under Section 67 of U.P. Revenue Code, 2006 is pending before the Assistant Collector / Tehsildar, Tehsil Sakaldiha, District Chandauli (respondent No. 2), but till date the proceeding has not been concluded.

4. Sub Rule 6 of Rule 67 of the U.P. Revenue Code Rules, 2016 provides as under:

".....(6). The Assistant Collector shall make an endeavour to conclude the proceeding under Section 67 of the Code within the period of ninety days from the date of issuance of the show cause notice and if the

proceeding is not concluded within such period the reasons for the same shall be recorded."

5. Since, there is a clear legislative mandate that if proceedings are not concluded within stipulated period of time as provided under the aforesaid provision, reasons for the same shall be recorded.

6. Learned Standing Counsel submits that he has no objection to the extent that a direction is issued by this Court for expeditious disposal of the case within stipulated period as to be fixed by this Court.

7. In view of the nature of the order proposed to be passed, the service of notice upon the respondent nos. 4 & 5 is dispensed with.

8. Taking into consideration the facts and circumstances of the case, this Court is of the view that no useful purpose would be served in keeping this writ petition pending. Accordingly, this Court deems it appropriate to finally dispose of the present writ petition with a direction to Assistant Collector / Tehsildar, Tehsil Sakaldiha, District Chandauli (respondent No. 2), before whom the aforementioned matter is pending for disposal, to decide the aforementioned Computerized Case No. T201814180304733 (Case No. 04733/2018) (Gram Sabha Vs. Ramvilash Ram), Computerized Case No. T202214180302970 (Case No. 2970/2022) (Gram Sabha Vs. Ramvilash Ram) and Computerized Case No. T202214180302971 (Case No. 2971/2022) (Gram Sabha Vs. Ashwani Kumar) in accordance with law, by a reasoned and speaking order after affording opportunity of hearing to the parties concerned, expeditiously and preferably within a period of **three months** from the date of receipt of a certified copy of this order, if there is no other legal impediment. It is further provided that no unnecessary adjournments be granted to either of the parties.

9. With the aforesaid direction, the present writ petition is disposed of.

Order Date :- 19.10.2023

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