

Court No. - 40

Case :- WRIT - C No. - 26108 of 2023

Petitioner :- Surya Nath Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- R.K.Paramhans Singh

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

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner; Sri S.C.Upadhyay, learned Standing Counsel for the State-respondent and Sri Hamid Bakht holding brief of Sri Bhupendra Kumar Tripathi, learned counsel for the respondent.

2. The present writ petition has been preferred for a mandamus commanding the respondents to remove the Khadanja constructed over the petitioner's Arazi No. 100 situated at village-Ailia, Pargana & Tehsil-Kerakat, District Jaunpur in pursuance of demarcation order dated 1.6.2022 within stipulated period.

3. The matter was taken on 27.10.2023 and this Court has directed to issue a bailable warrant against the respondent no. 2 i.e. Sub Divisional Magistrate, Kerakat, District Jaunpur with following observations.

"1. Learned Standing Counsel states that the previous orders were duly communicated to the respondent on 02.09.2023 and on 09.10.2023 through FAX messages. He submits that one more indulgence may be accorded so that appropriate instructions be placed on record.

2. Surprisingly, in spite of the stop order dated 05.10.2023, neither learned Standing Counsel has placed any instruction nor any responsible officer is present before the Court for assistance.

3. Let bailable warrant be issued against the Sub-Divisional Magistrate, Kerakat, District Jaunpur through the concerned Chief Judicial Magistrate.

4. Put up this matter on 06.11.2023 as fresh."

4. In response to the aforesaid order, the concerned Sub Divisional Magistrate, Kerakat, District Jaunpur is present. A compliance affidavit along with Exemption Application has been filed on behalf of the respondent no. 2, which is taken on record. It has been averred in the affidavit that after receiving the communication from the office of Chief Standing Counsel, the deponent had immediately directed the Tehsildar Kerakat on 12.10.2023 to look into the matter and ensure compliance of the order passed by this Hon'ble Court and also directed for ensuring the

necessary instructions to be placed before the Hon'ble Court on the date fixed in the matter. The Tehsildar Kerakat thereafter directed the Naib Tehsildar for necessary compliance vide letter No. 581/R.C. dated 13.10.2023. It is submitted unfortunately the Naib Tehsildar had not complied the order and committed negligence in discharge of his duty and accordingly a stern warning was given to him vide office order dated 30.10.2023 (Annexure No. 1 to the affidavit filed by the deponent).

5. Considering the affidavit of compliance, we are of the considered opinion that the explanation is satisfactory. Accordingly, personal presence of the officer concerned is dispensed with.

6. Even on merit, learned Standing Counsel states that the proceeding under Section 24 of the U.P.Revenue Code 2006 is pending consideration before the competent authority and every sincere efforts would be made for deciding the same expeditiously without according unnecessary adjournments to the parties.

7. Considering the facts and circumstances of the case, without advertng on merit of the case we deem it appropriate to mention that the U.P.Revenue Code 2006 itself is a self-contained Code and the parties are always at liberty to press the relief under the said Code. Needless to say, in case any such proceeding is still pending, the same would be culminated to its logical end expeditiously from the date of production of a certified copy of this order.

8. With the aforesaid observations, the writ petition stands **disposed of**.

Order Date :- 6.11.2023

A.K.Srivastava