

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1834 of 2023

Petitioner :- Dharmendra Pandey

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

Counsel for Petitioner :- Vijay Kumar Srivastava

Counsel for Respondent :- C.S.C., Akhilesh K. Dwivedi

Hon'ble Syed Qamar Hasan Rizvi, J.

Heard Shri Vijay Kumar Srivastava, learned counsel for the petitioner and Shri Avneesh Kumar Shukla, learned Standing Counsel for State-respondents No. 1 to 3 and Shri Akhilesh Kumar Dwivedi, learned counsel for respondent No. 4 and perused the record.

This public interest litigation has been filed by the petitioner praying for the following relief:-

1. Issue a writ, order or direction in the nature of ad interim mandamus commanding the respondents particularly respondent No. 2 and 3 to get vacate the land/araji 230 area 0.5500 hectare recorded as Pokhari in the revenue record being used by the villagers and remove the illegal encroachment of the illegal occupants i.e. respondent No. 4 and 5.

2. Issue a writ order or direction in the nature of mandamus commanding the respondent Nos. 2 and 3 to consider and decide the claim of petitioner contained in representation dated 14.02.2023 for vacating the land/araji 230 area 0.5500 hectare recorded as Pkhari in the revenue record being used by the villagers and remove the illegal encroachment of the illegal occupants i.e. respondent No. 4 and 5 from the land in question. "

This Court vide order dated 29.8.2023 allowed time to learned Standing Counsel to seek instructions in the matter.

Learned Standing Counsel submits that he has received the written instructions dated 16.9.2023 from the Tehsildar Tamkuhiraj, district Kushi Nagar. The copy of the said written instructions is taken on record.

On the basis of the aforesaid written instructions, learned counsel for the State submits that insofar as prayer No. 2 is concerned, the representation dated 14.2.2023 has already been decided by the

Tehsildar Tamkuhiraj, district Kushi Nagar vide order dated 30.8.2023, and as such, in respect of prayer No. 2, the writ petition has now become infructuous.

Insofar as the prayer No. 1 is concerned, on the basis of the aforesaid instructions, learned Standing Counsel submits that respondent No. 5 has filed a writ petition bearing Writ-C No. 5721 of 2019 (Chandra Kishore vs. District Magistrate and others), which is pending for disposal before this Court. In the said writ petition, this Court vide order dated 1.3.2019 has passed an interim order, whereby proceedings under Section 67 of the U.P. Revenue Code, 2006 against respondent No. 5 has been suspended. The operative part of the order dated 1.3.2019 is reproduced below:-

"Until further orders, operation of the impugned orders dated 06.07.2018 and 22.12.2018 passed by respondent nos. 2 and 1 respectively, shall remain suspended."

Contention of the learned Standing Counsel is that, because of the aforesaid interim order passed by this Court the process of eviction of respondent No. 5 has been stopped and the further proceedings are lying suspended.

Learned counsel appearing on behalf of respondent No. 5 has pointed out that a Writ bearing Writ-C No. 19091 of 2019 filed by respondent No. 4 is also pending.

On the request of the learned counsel for the petitioner, the copy of the order dated 30.8.2023 passed by the Tehsildar Tamkuhiraj, district Kushi Nagar, on the representation of the petitioner dated 14.2.2023, has been provided by the learned Standing Counsel to Shri Rajesh Yadav holding brief of Shri Vijay Kumar Srivastava, learned counsel for the petitioner.

Needless to say that it is always open to the petitioner to take legal recourse by challenging the same in accordance with law, in case if, he feels aggrieved by the order dated 30.8.2023 passed by the Tehsildar, Tamkuhiraj, district Kushi Nagar.

In view of aforesaid, the public interest litigation is finally disposed of.

Order Date :- 12.10.2023

Sumaira