

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1878 of 2023

Petitioner :- Vijay Shankar Rai

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- U.C. Chaturvedi

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

Hon'ble Chandra Kumar Rai,J.

1.Mr. Mridul Kumar learned Standing Counsel has placed the instruction dated 20.10.2023 before the Court today, which is taken on record and Mr. A.K. Malviya, learned counsel for respondent Nos.5 to 7 has also placed the instruction, which is also taken on record.

2. Heard Mr. U.C. Chaturvedi, learned counsel for the petitioner, Mr. Awadesh Kumar Malviya, learned counsel for respondent Nos.5 to 7, Mr. Bhupendra Kumar Tripathi, learned counsel for respondent No.4/Land Management Committee and Mr. Mridul Kumar, learned Standing Counsel for the State-respondents.

3. Learned Standing Counsel for the State as well as learned counsel for respondent Nos.5 to 7 shall serve copy of the instructions upon learned counsel for the petitioner during course of the day.

4. The instant public interest litigation has been filed for a mandamus directing respondent/authorities to take action for removal of encroachment in respect to the araji No.360, which is recorded in the name of Primary School.

5. On the basis of the instruction, learned Standing Counsel for the State-respondents submitted that plot No.360 total area 0.0860 hectare is recorded in the name of Primary School. He further submitted that after inspection/ demarcation of spot area 0.015 hectare has been found in possession of respondent Nos.5 to 7 accordingly proceeding under section 67 (1) of U.P. Revenue Code, 2006 has been initiated and Case Nos. T202314290303559, Case No.T2023142903035598 and Case No.T202314290303560 have been registered, which are pending for consideration. He further submits that next date fixed before Tehsildar in the matter is 06.11.2023.

6. Mr. Awadheshh Kumar Malviya, learned counsel for respondent Nos. 5 to 7 submitted that proceeding under Section 122-B of U.P.Z.A. & L.R. was decided vide order dated 31.12.1990 by which notice 49-ka was dropped and respondent Nos.5 to 7 were not found in possession of plot No.360 area 0-1-0. He further submitted that instant public interest litigation has been filed by the petitioner in order to harass respondent Nos.5 to 7 as earlier proceeding initiated was dropped against the respondent Nos.5 to 7.

7. I have considered the arguments advanced by learned counsel for the parties.

8. Since the plot in dispute is recorded as Primary School in the revenue record and the proceeding under section 67 (1) of U.P. Revenue Code, 2006 has been registered, which is pending before Tehsildar, as such it will be proper that the pending proceeding should be decided in accordance with law after affording proper opportunity of hearing to the parties.

9. Considering the facts and circumstances of the case as well as instructions placed before the Court, respondent Nos. 5 to 7 are directed to appear in the aforementioned pending proceeding before Tehsildar, Jamaniya, Ghazipur by filing proper objection in support of their case which shall be decided in accordance with law with a period of four months from the date of production of certified copy of this order after affording opportunity of hearing to the parties.

10. With the above observation, the instant P.I.L.is disposed of.

Order Date :- 28.10.2023

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