

Court No. - 52

Case :- WRIT - C No. - 30134 of 2022

Petitioner :- Jata Shankar Dubey And 3 Others

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

Counsel for Petitioner :- Kamlesh Kumar Tiwari, Sanjay Kumar Upadhyay

Counsel for Respondent :- C.S.C., Pradeep Singh

Hon'ble Saurabh Srivastava, J.

1. Heard Shri Sanjay Kumar Upadhyay, alongwith Shri Kamlesh Kumar Tiwari, learned counsel for the petitioners, Shri Pradeep Singh, learned counsel for respondent no.5 and Shri Shashi Kant Kushwaha, learned counsel for respondent nos. 1 to 4.

2. The present petition has been preferred for seeking order or direction in the nature of mandamus commanding the respondents to remove the illegal constructions in the shape of pathway/kharanja marg from bhumidhari land of the petitioners bearing Plot no.477, area 0.0990 hectare alongwith seeking direction in the nature certiorari quashing the proceedings initiated by respondent no.4 under Section 34 of U.P. Revenue Code, 2006 registered as Case No. T202216670503706 (Manju Devi vs. Shiv Shankar and others).

3. Shri Pradeep Singh, learned counsel for respondent no.5 submitted that the prayer made for removal of the illegal construction has already been exhausted since the constructions whatsoever has been initiated over bhumidhari plot pertains to the petitioners has already been removed and as such there is hardly any cause of action survive in favour of the petitioners to pursue the instant petition.

4. Shri Sanjay Kumar Upadhyay, learned counsel for the petitioners submitted that although the illegal proposed construction in shape of pathway has already been stopped and removed but proceedings under Section 34 is still pending to be finally adjudicated by respondent no.4.

5. Be that as it may, without interfering in the merits of the matter, respondent no.4 is hereby directed to finalise the proceedings in terms of the action taken up by the respondent no.5 in favour of the petitioner as expeditiously as possible preferably within a period of six months from the date of production of certified copy of this order.

6. Writ petition stands **disposed of** accordingly.

Order Date :- 23.11.2023

Rakesh