

Court No. - 51

Case :- WRIT - C No. - 28314 of 2023

Petitioner :- Dukhluram

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

Counsel for Petitioner :- Suman Kumar Yadav, Vinay Pratap Singh

Counsel for Respondent :- C.S.C., Rameshwar Prasad Shukla

Hon'ble Chandra Kumar Rai, J.

1. The instant petition has been filed for following relief:-

a) Issue a writ, order or direction in the nature of mandamus commanding the respondent nos. 2&3 to initiate auction proceeding of the plot Khasara/Pond no. 114 area 1.1370 hectare situated at Village-Jignee, Post- Khajuri, Pargana- Beladaulatabad, Police Station and tehsil- Mehnagar, district- Azamgarh, forthwith, on the basis of Section 61 of the Revenue Code, 2006 as well as Rule 57 of the U.P. revenue Code Rules, 2016 for allotment of lease for period of 10 years.

b) Issue a writ, order or direction in the nature of mandamus commanding the respondent no.3 to decide the representation dated 30.05.2023, submitted by the petitioner.

c) Issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

d) Award the cost of the petition to the petitioner.

2. This court vide order dated 29.8.2023 directed the standing counsel to obtain instruction in the matter.

3. In compliance of the order of this Court dated 29.8.2023, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents has placed the instruction dated 18.9.2023 before the Court, which is taken on record.

4. Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents as well as Rameshwar Prasad Shukla for Gaon Sabha on the basis of instruction dated 18.9.2023 submitted that plot no.114 area 1.137 hectare is recorded as pond in the revenue records. He further submitted that the petitioner was granted fisheries lease on 4.2.2013, which expired on 3.2.2023. He next submitted that the fresh auction in respect to the pond in question has taken place on 30.8.2023, which has been settled in favour of one, Kamlesh Verma son of Chedi Verma. He also submitted that the petitioner is no more.

5. The instant petition has been filed for the relief that proper auction proceedings be initiated in respect to the pond in question as provided under U.P. Revenue Code, 2006 and the Rules framed thereunder.

6. Instruction dated 18.9.2023 sent by Sub-Divisional Officer, Mehnagar, District- Azamgarh will be relevant for perusal, which is as under:

"माननीय उच्च न्यायालय के योजित संख्या 28314/2023 "दुखालू राम बनाम उ०प्र०सरकार व 03 अन्य में अनुदेश (Instructions) आख्य-

माननीय उच्च न्यायालय के योजित याचिका संख्या 28314/2023 " दुखालू राम बनाम उ०प्र०सरकार व 03 अन्य में माननीय उच्च न्यायालय इलाहाबाद द्वारा दिनांक 29.08.2023 को अनुदेश (Instructions) आख्या दाखिल किये जाने के आदेश दिये गये हैं, उक्त के सन्दर्भ सादर अवगत कराना है कि ग्राम जिगनी परगना बेलादौलताबाद तहसील मेंहनगर जनपद आजमगढ़ के अन्तर्गत स्थित गाटा सं० 114 रकबा 1.137 हे० राजस्व अभिलेख आकार पत्र 41 व 45 व वर्तमान खतौनी में पोखरी खाते में दर्ज है। याचिकाकर्ता दुखालू राम पुत्र सुखालू राम को 04.02.2023 को मत्स्य आवंटन किया गया था, जिसकी अवधि 03.02.2023 को समाप्त हो गयी। पट्टे की अवधि समाप्त हो जाने के उपरान्त दिनांक 15.08.2023 को विज्ञापित करते हुए सभी विधिक नियमों का पालन करते हुए दिनांक 30.08.2023 को तहसील सभागार में मत्स्य आवंटन हेतु नीलामी सम्पन्न करायी गयी, जिसमें ग्राम जिगनी स्थित गाटा सं० 114 के मत्स्य आवंटन नियमानुसार कमलेश वर्मा पुत्र छेदी वर्मा जाति कहार के पक्ष में की गयी। वर्तमान में याचिकाकर्ता दुखालू पुत्र सुखलू की मृत्यु हो चुकी है।

अतः अनुदेश आख्या सादर सेवा में प्रेषित।

ह०अपठनीय
(सन्त रंजन)
उपजिलाधिकारी,
मेंहनगर, आजमगढ़।"

7. In view of the facts mentioned in the instruction dated 18.9.2023 that auction has already taken place on 30.8.2023, as such, no cause of action survives in the matter.

8. The writ petition is ***dismissed accordingly.***

Order Date :- 26.10.2023

Rameez