

Court No. - 51

Case :- WRIT - C No. - 28687 of 2023

Petitioner :- Jabbar Siddiki

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

Counsel for Petitioner :- Hare Ram Pandey

Counsel for Respondent :- C.S.C., Amar Nath Tiwari

Hon'ble Chandra Kumar Rai,J.

1. Heard learned counsel for the petitioner, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Amar Nath Tiwari, learned counsel for respondent No.4.

2. Instruction dated 16.09.2023 filed by State in compliance of the order of this Court dated 24.08.2023 is taken on record.

3. The instant writ petition has been filed praying for a mandamus directing respondent Nos.2 and 3 to constitute a revenue team and restrain the private respondent Nos.4 to 7 from interfering in the right of the petitioner with respect to the possession of the plot No.108 area 0.0040 hectare.

4. Learned counsel for the petitioner submitted that petitioner's father being recorded tenure holder of the plot in dispute has filed a case no. 314 of 2003-04 under Section 41 of Land Revenue Act before the Court of respondent No.3 for demarcation. He further submitted that demarcation was made on the spot by the authorities, but later on interference was being made accordingly, petitioner again filed an application, which is pending. He further submitted that appropriate direction be issued for the disposal of the petitioner's pending application.

5. Mr. Amar Nath Tiwari, learned counsel for respondent No.4, as

well as Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondent on the basis of the instruction dated 08.09.2023 submitted that plot No. 108-ka area 0.020 hectare, plot No. 108-kha area 0.004 hectare, Gata No. 108-va area 0.008 hectare and plot No. 108-gha area 0.0112 hectare are recorded in the name of private persons which is demonstrated from khatauni of 1429 to 1434 fasli annexed along with instruction. He further submitted that order under Section 41 of U.P. Land Revenue Act, was passed on 12.03.2007 and the implementation was made long back in pursuance of the order dated 12.03.2007. He further submitted that fresh application was filed on behalf of the petitioner for fixation of pillars in pursuance of the order dated 12.03.2007 accordingly inspection was made and pillars were fixed in presence of the petitioner as well as other residents of the village. Copy of the spot memo prepared by the authorities is annexed along with the instruction. He further submitted that no further interference is required on the basis of the order passed on 12.03.2007 under Section 41 of U.P. Land Revenue Act.

6. I have considered the arguments advanced by the learned counsel for the parties and perused the record.

7. There is no dispute about the fact that order under Section 41 of Land Revenue Act was passed on 12.03.2007. There is also no dispute about the fact that order dated 12.03.2007 has been implemented and the pillars have been fixed on the spot in pursuance of the order dated 12.03.2007.

8. Perusal of the averment made in the writ petition, as well as application filed by the petitioner reveals that there is private dispute between the petitioner and respondents, therefore the same

cannot be settled by writ of mandamus in exercise of jurisdiction under Article 226 of the Constitution of India. **No interference is required and writ petition is hereby dismissed.**

Order Date :- 2.12.2023

PS*