

**Court No. - 40**

**Case :-** WRIT - C No. - 29895 of 2023

**Petitioner :-** Sunil Chaudhary And Another

**Respondent :-** State Of U.P. And 7 Others

**Counsel for Petitioner :-** Vrajendra Kumar, Bhagwan Dutt Pandey, Brijendra Kumar Srivastava

**Counsel for Respondent :-** C.S.C.

**Hon'ble Mahesh Chandra Tripathi, J.**

**Hon'ble Prashant Kumar, J.**

1. Heard learned counsel for the petitioners, Mrs. Uttara Bahuguna learned Additional Chief Standing Counsel for the State-respondents and perused the record.

2. Present writ petition is preferred inter-alia with following principal prayers:-

*"Issue a writ, order or direction in the nature of mandamus directing the respondents to initiate departmental proceeding and take penal action against the erring authorities i.e. police authorities i.e. Station House Officer, P.S. Nautanwa, District- Maharajganj, respondent no.4 & Sub-Divisional Magistrate, Nautanwa, Maharajganj, respondent no.3 for challan the petitioners again and again.*

*Issue a writ, order or direction in the nature of mandamus directing the respondent no.2 to consider and decide the claim of petitioner contained in representation dated 28.7.2023 (Annexure No.8) for being initiate the departmental proceeding and take penal action against the erring authorities i.e. police authorities i.e. Station House Officer, P.S. Nautanwa, District- Maharajganj, respondent no.4 & Sub-Divisional Magistrate, Nautanwa, Maharajganj, respondent no.3 for challan the petitioners again and again."*

3. At the very outset, learned Additional Chief Standing Counsel raised a preliminary objection regarding the maintainability of the instant writ petition by submitting that the dispute vis-a-vis between private respondents and petitioners. She further submits that the writ petition is not maintainable as there is serious dispute qua the rights/title of the property in question and the same cannot be adjudicated in writ jurisdiction under Article 226 of the Constitution of India. A writ petition for enforcement of the common law remedies under Article 226 of the Constitution of India is not ordinarily maintainable for such reliefs against persons, who do not have any public duties to perform. The

petitioner has adequate and efficacious alternative remedies of approaching the District Judiciary, at the first instance for seeking aforesaid remedies.

4. Considering the facts and circumstances and the objection so raised by learned Additional Chief Standing Counsel, we are not at all inclined to issue any direction in the matter. In case an injunction order is being flouted or there is any breach of injunction by the defendants/respondents, the appropriate remedy for petitioners is to approach the Competent Civil Court by moving an application under Order XXXIX Rule 2A CPC.

5. With these observations, the writ petition is disposed of.

**Order Date :- 16.10.2023**

Sachin