

Court No. - 40

Case :- WRIT - C No. - 30117 of 2023

Petitioner :- Baij Nath And 2 Others

Respondent :- State Of U.P. And 13 Others

Counsel for Petitioner :- Vishal Agarwal

Counsel for Respondent :- C.S.C.,Manoj Kumar Mishra,Umesh Vats

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner; Sri Umesh Vats, learned counsel for the contesting-respondent no. 14 and Sri S.C.Upadhayay, learned Standing Counsel for the State-respondent.
2. The present writ petition is preferred for a mandamus directing the respondents not to encroach upon the petitioners' holding and further restraining the respondents not to carry out any demolition. It is also prayed that the respondents may be directed to maintain status quo over the property in question and further no third party rights be created over the disputed property.
3. Sri Umesh Vats, learned counsel for the contesting-respondent raised an objection regarding maintainability of the writ petition on the ground that the petitioners have not approached to this Court with clean and pious mind. There is concealment of material facts. Even though, the parties are in loggerhead in various civil and criminal proceedings and plethora of litigations are pending before the competent court. Both the parties have already instituted suits for their respective claims. Even though, the contesting respondent had also instituted a suit for injunction bearing civil suit no. 64 of 2023, wherein, interim order is already accorded by the competent civil court on 14.7.2023. The said proceeding is also under challenge before learned Single Judge of this Court in Matters Under Article 227 No. 8917 of 2023. Without divulging the aforesaid litigations, the present writ

petition is preferred and the same is liable to be dismissed on this ground alone.

4. Learned counsel for the petitioner has very strenuously advanced his submissions seeking indulgence of this Court to interfere with the matter. However, he failed to bag the discretion of this Court in petitioners' favour as the premise on which the entire issue stands for does not inspire confidence of this Court to look into the depth of such civil dispute which bears complexity in facts and that can only be redressed by the competent civil court in the appropriate proceedings.
5. Looking into the aforesaid, we are not inclined to issue any direction in the matter leaving it open for the petitioners to press the relief before the competent civil court.
6. The writ petition is accordingly ***dismissed***.

Order Date :- 2.11.2023

A.K.Srivastava