

Court No. - 52

Case :- WRIT - C No. - 29630 of 2023

Petitioner :- Raj Narain Tiwari

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Ravi Shanker Pathak

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

Hon'ble Saurabh Srivastava,J.

Heard Shri Ravi Shanker Pathak, learned counsel for the petitioner and Shri Tarun Gaur, learned standing counsel appearing on behalf of respondent nos. 1 to 4.

Considering the nature of the matter comprises of service of notice upon respondent no.6 is hereby dispensed with.

The case of the petitioner is that he has already preferred an application under Section 38 of U.P. Revenue Code of 2006 for correction of map with regard to plot no.1936, 1938, 1966, 1945, 1969 and 1940 situated at Village Surhan, Tehsil Martinganj, District Azamgarh before respondent no.3 and the same is still pending to be finally adjudicated.

The present petition has been instituted at the behest of representation dated 1.8.2023 submitted by the petitioner before respondent no.3 alleging that respondent no.6 is raising some constructions over the plot which are under consideration before respondent no.3 wherein certain correction of map has been sought by the petitioner. On precise query made before learned counsel for the petitioner that whether any application under Section 38 of U.P. Revenue Code 2006, seeking restraint against respondent no.6 has been initiated or not, the same has been fairly replied by learned counsel for the petitioner that except the representation dated 1.8.2023 nothing has been brought on record during proceedings in Case No.3555 of 2023 (Raj Narain and others vs. Gram Panchayat), under Section 38 (2) of U.P. Revenue Code, 2006.

Shri Tarun Gaur, learned standing counsel vehemently opposed the prayer as made in the petition by way of raising arguments that no representation seeking restraint against respondent no.6 as preferred by the petitioner is maintainable, whereas the proceedings for the same has been defined under Section 134 of U.P. Revenue Code, 2006.

The arguments as raised by learned standing counsel seems to be forceful however, if any application preferred under the statutory provision provided under U.P. Revenue Code, 2006 is preferred by the petitioner during pendency of the proceedings under Section 38(2) the same shall be entertained by the respondent no.3 in accordance with law and proceed thereupon for securing the legitimate rights available to the petitioner.

Writ petition stands **disposed of** accordingly.

Order Date :- 12.10.2023

Rakesh