

Court No. - 40

Case :- WRIT - C No. - 31544 of 2023

Petitioner :- Smt. Saajda Begum

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

Counsel for Petitioner :- Mohd. Ishraque Farooqui

Counsel for Respondent :- C.S.C.,Azad Rai

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and Sri S.C. Upadhyay, learned Standing Counsel for the State-respondents.

2. The present writ petition has been preferred inter alia with the following reliefs:-

"(i) Issue a writ, order or direction in the nature of mandamus commanding the respondent No.2 and 3 not construct a Pani Ki Tanki (water tank) upon the petitioner land which is abadi land Khasra no.879K area 0.4128 hect. situated in village Adhaiya, Tehsil Khaga, District-Fatehpur, during the pendency of the present writ petition.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondent authority to pay the compensation to the petitioner in pursuance of the demolished the petitioner house situated in the abadi land khasra no.879K area 0.4128 hect. situated in Village-Adhaiya, Tehsil Khaga, District Fatehpur."

3. Learned Standing Counsel appearing for the State-respondents has raised an objection regarding maintainability of writ petition on the ground that the petitioner is seeking enforcement of common law rights for protection of her property. The impleadment of the State respondents is not for claiming any constitutional or statutory rights against the State. They have been impleaded for taking action, for protection of the property rights against the private individuals.

4. A writ petition for enforcement of the extraordinary 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 civil or revenue courts, at the first instance for seeking the remedies.

5. With the aforesaid observations, the writ petition stands disposed of.

Order Date :- 13.10.2023/Manish Himwan