

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2206 of 2023

Petitioner :- Aavid Husain

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

Counsel for Petitioner :- Girish Kumar Mishra

Counsel for Respondent :- C.S.C., Sher Bahadur Singh

Hon'ble Chandra Kumar Rai,J.

1. Instruction placed by Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents is taken on record.

2. Heard Mr. Girish Kumar Mishra, learned counsel for the petitioner, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Sher Bahadur Singh, learned counsel for the respondent- Land Management Committee.

3. The instant public interest litigation on behalf of the petitioner has been filed for quashing the order dated 29.4.2023 passed by respondent no.2/ Collector, under Section 67 (5) of U.P. Revenue Code, 2006 as well as the order dated 17.8.2019 passed by Tahsildar, under Section 67 (1) of U.P. Revenue Code, 2006.

4. Learned counsel for the petitioner submitted that the impugned orders have been passed in arbitrary manner by the Tahsildar and the Collector in the proceeding, under Section 67 of U.P. Revenue Code, 2006 in view of the entry of the plot in dispute. He further submitted that the instant public interest litigation be entertained and the impugned orders be set aside and appropriate order be passed for eviction of the unauthorized occupant in respect to plot no.618 / 4.

5. On the other hand, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Sher Bahadur Singh, learned counsel for respondent- Land Management Committee submitted that in pursuance of the orders passed by the Tahsildar and the Collector in the proceeding, under Section 67 of U.P. Revenue Code, 2006 a team was constituted under the order dated 8.9.2023 and inspection was conducted in which it is found that plot no.618 area 0.056 hectare, which is recorded as "*khad ke gaddhe*", is free from encroachment. They next submitted spot plot

memo was accordingly prepared on spot which is annexed along with the instruction.

6. It is also material that orders passed in the proceeding under Section 67(1) and 67(5) of U.P. Revenue Code cannot be challenged by petitioner in the Public Interest rather state or Gaon Sabha can challenge the orders.

7. Considering the entire facts and circumstances, no interference is required against the impugned orders passed in the proceeding, under Section 67 of U.P. Revenue Code, 2006 at the instance of the petitioner in the public interest litigation.

8. The instant public interest litigation is not maintainable and ***dismissed accordingly.***

Order Date :- 31.10.2023

Rameez