

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2158 of 2023

Petitioner :- Tarun Kumar

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Sanjeev Kumar Rai

Counsel for Respondent :- C.S.C.,Diptiman Singh,Kaushal Kishore Mani,Manjari Singh

Hon'ble Chandra Kumar Rai,J.

1.Instruction dated 29.09.2023 has been placed before the Court by Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents, which is taken on record.

2. Heard Sanjeev Kumar Rai, learned counsel for the petitioner, Mrs. Manjari Singh, learned counsel for respondent No.5, Mr. K.K. Mani, learned counsel for respondent No.4 and Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents.

3.Instant P.I.L. has been filed for the following relief:

"(i) issue a writ, order or direction in the nature of mandamus commanding the respondent Nos.2 and 3 either to decide the pending case No.37/2009-10 under Section 122-B U.P.Z.A.&L.R. Act or take proper initiative for removing the illegal encroachment over land in dispute having khasra No.1019, area 0.9730 hectare situated in village and Pargana-Khatauli Rural, District-Muzaffar Nagar."

4. Counsel for the petitioner submitted that proceeding under Section 122-B of U.P.Z.A & L.R. Act in respect to khasara No.1019 which is recorded as public utility land is still pending before the Tehsildar in pursuance of the remand order passed by the revisional Court. He further submitted that necessary direction be issued for the disposal of the pending proceeding under Section 122-B of U.P. Z.A.& L.R. Act within stipulated

period.

5. Mrs. Manjari Singh, learned counsel for the private respondent submitted that instant P.I.L. at the instant of the petitioner is not maintainable. She further submitted that Gaon Sabha and State can maintain the proceeding under Section 122-B of U.P.Z.A.& L. R. Act She further submitted that proceeding is pending before Tehsildar in pursuance of the remand order passed by revisional court as such no interference is required in the matter at the instance of the petitioner by way of Public Interest Litigation.

6. Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents on the basis of the instruction dated 29.09.2023 submitted that demarcation is to be conducted in the pending proceeding, as such proceeding shall be decided in accordance with law.

7. Considering the facts and circumstances of the case as well as in view of the nature of the entry of the plot in dispute, the present P.I.L.stands **disposed of** finally with a direction to respondent No.3/ Tehsildar, Khatauli Rural, Muzaffar Nagar to conclude the proceeding of the pending case No.37/2009-10 under Section-122B of U.P.Z.A. & L.R. Act in accordance with law expeditiously and preferably within a period of **four months** from the date of production of certified copy of this order after giving opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties.

8. It is made clear that this Court has not expressed any opinion on the merit of case.

Order Date :- 16.10.2023

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