

Court No. - 47

Case :- WRIT - C No. - 31768 of 2023

Petitioner :- Ashram And Another

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

Counsel for Petitioner :- Deepak Gaur, Sarvesh Kumar Pandey

Counsel for Respondent :- C.S.C., Avinash Chandra Srivastava

Hon'ble Manish Kumar Nigam, J.

1. Heard learned counsel for the petitioner, learned counsel for the respondent and learned Standing Counsel and perused the record.

2. The present petition has been filed with the following prayer:

"(i) Issue a writ, order, or direction in the nature of certiorari quashing the order dated 08.05.2023 passed by respondent no. 2/Additional Commissioner, Agra Division, District Agra in Case No. 474 of 2015 (Vimla Devi and another vs. Sohan Singh and others) under Section 333 of U.P.Z.A. and L.R. Act, 1950.

(ii) Issue a writ, order, or direction, in the nature of certiorari quashing the order dated 16.01.2015 passed by respondent no. 3/District Magistrate/Collector Mainpuri in Case No. D2014014900480 (Sohan Singh vs. Asharam and another), under Section 122(b) (6) 333 of U.P.Z.A. and L.R. Act, 1950."

3. Learned counsel for the petitioner submitted that Awasi patta was granted to the petitioner which was to be used as a rasta by the petitioner has been cancelled by the order impugned. Perused the order impugned. A finding has been recorded by the courts below that abadi patta cannot be granted for the purposes of using the same as a rasta to approach his land. It has also been provided that by the order impugned that in case rasta of the petitioner is obstructed, he may move an appropriate application under the relevant provisions of law for removal of the obstruction.

4. In view of the finding recorded by the courts below, I am not inclined to interfere in the matter.

5. However, it will be open to the petitioner to move an appropriate application under Section 26 of the U.P. Revenue Code, 2006, in case rasta of the petitioner has been encroached by

private person.

6. In case, the petitioner moves an application under Section 129 of Uttar Pradesh Revenue Code, 2006, before appropriate authority, the same shall be decided, in accordance with law, expeditiously, preferably within a period of three month from the date of production of a certified copy of this order after giving opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties provided that there is no other legal impediment.

7. With the aforesaid observation, the petition is disposed of.

Order Date :- 23.11.2023

Ved Prakash

(Manish Kumar Nigam, J.)