

Court No. - 40

Case :- WRIT - C No. - 32190 of 2023

Petitioner :- Shiv Poojan @ Poojan

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

Counsel for Petitioner :- Sandeep

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri Sandeep, learned counsel for the petitioner and Ms. Uttara Bahuguna, learned Additional Chief Standing Counsel for the State-respondents.

2. The present writ petition is preferred under Article 226 of the Constitution of India *inter alia* with following reliefs :-

"(i) issue a writ, order or direction in the nature of mandamus commanding/directing the respondent no. 4 to comply the order passed by respondent no. 3 for maintaining peace over the land of the petitioner, over the application of the petitioner.

(ii) issue a writ, order or direction in the nature of mandamus commanding/directing the respondent no. 3 & 4 to restrain the private respondent nos. 5 and 6 for interfering in peaceful possession of the petitioner's land situated at Gata Nos. 75, 76, 72, 90 and 147."

3. Ms. Uttara Bahuguna, learned Additional Chief Standing Counsel raised an objection regarding the maintainability of the writ petition on the ground that admittedly, for partition, the suit proceeding is pending consideration between the parties under Section 116 of U.P. Revenue Code, 2016 and now it is alleged that the private respondents no. 5 and 6 are interfering in the petitioner's holding. He submits that once the rights are yet to be crystalised under the aforesaid proceedings, the said relief cannot be accorded by writ court.

4. Confronted with this situation, learned counsel for the petitioner states that direction may be issued to the Sub-Divisional Magistrate concerned so that the proceedings under Section 116 of U.P. Revenue Code may be finalised so that the petitioner may press the relief thereafter.

5. Considering the facts and circumstances, without adverting into the merits of the case, in case, proceeding under Section 116 of

U.P. Revenue Code is still pending consideration, the same is to be finalised expeditiously preferably within two months from the date of production of certified copy of this order.

6. With the aforesaid direction, the writ petition stands **disposed of**.

Order Date :- 12.10.2023

Rama Kant