

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2172 of 2023

Petitioner :- Sompal

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

Counsel for Petitioner :- Shiv Prakash Gupta

Counsel for Respondent :- C.S.C., Sanjay Kumar Om, Sunil Kumar Singh

Hon'ble Chandra Kumar Rai, J.

1. Mr. Abhinav Ojha, learned Standing Counsel for the State-respondents has placed the instruction dated 18.09.2023 before the Court today, which is taken on record.
2. Learned Standing Counsel shall serve copy of the instruction upon Council for the Petitioner during course of the day.
3. Heard learned counsel for the petitioner, Mr. Abhinav Ojha, learned Standing Counsel for the State-Respondents, Mr. Sunil Kumar Singh, learned counsel for respondent No. 4-Gaon Sabha, Mr. Sanjay Kumar Om, learned counsel for respondent No. 5 and Mr. Devesh Vikram, learned counsel for respondent No. 6.
4. The instant writ petition has been filed for the following relief.

"(i) issue a writ order or direction in the nature of mandamus commanding the respondents/ authority concerned to stop the construction of Water Tank at the land bearing Khasra no.490/2 area about 0.3360 hectare, situated at play ground of Higher Primary School, Village-Afzalpur @ Rani Nangla, Development Area Hastinapur, District-Meerut, immediately, keeping in view that the aforesaid land is used as play ground of children and is necessary for skill Development of Students under Khelo India Scheme and the respondents shall be directed to made the construction at the khasra No.490/4 which has been proved for the purpose of construction of Water Tank by the Government under Jal Jivan Mission, in accordance with law within some stipulated time as fixed by this Hon'ble Court in the facts and circumstances of the case, otherwise the petitioners shall suffer irreparable loss and injury."

5. Mr. Abhinav Ojha, learned Standing Counsel for the State-Respondents on the basis of instruction dated 18.09.2023 submitted that plot No. 490/ 2, area 0.3360 hectare is recorded in the name of Primary School. He further placed copy of the Khatuni of 1427-1432 fasli in order to demonstrate that plot No.490/2 is recorded as primary school. He further submitted that in plot No. 490/2, Primary School and playground are situated over which no construction of water tank under the scheme of the government has been made. He further submitted that no construction of water tank is going on in Khasra No. 490/2. He further placed the report of Lekhpal in which it is mentioned that no construction of water tank will be made on in Khasra No. 490/ 2, in near future nor plot No. 490/ 2 will be interfered in any manner.

6. Mr. Sanjay Kumar Om, learned counsel for respondent No. 5 and Mr. Sunil Kumar Singh, learned counsel for

respondent No. 4/Gaon Sabha, submitted that construction of water tank is going on in Plot No. 490/4, rather in plot No. 490/ 2.

7. I have considered the argument advanced by the counsel for the parties and perused the record.

8. There is no dispute about the fact that plot No. 490/ 2 is recorded as Primary School and 490/4 is recorded as Naveen Parti.

9. Perusal of the instruction dated 18.09.2023 sent by Sub-Divisional Officer will be relevant for perusal, which is as under:

"माननीय उच्च न्यायालय, इलाहाबाद में योजित सिविल मिस० रिट याचिका नोटिस पीआईएल संख्या 50685 वर्ष 2023 सोमपाल बनाम उ०प्र० राज्य आदि में प्रस्तरवार आख्या निम्नवत है:-

1- ग्राम अफजलपुर उर्फ रानी नंगला परगना हस्तिनापुर तहसील मवाना में स्थित खसरा संख्या-490/2 रकबा 0.3360 है० प्राइमरी स्कूल के नाम दर्ज है। नकल खतौनी साथ संलग्न है।

(संलग्नक-1)

2- ग्राम अफजलपुर उर्फ रानी नंगला में स्थित खसरा संख्या 490/2 रकबा 0.3360 है० में स्थल पर प्राइमरी पाठशाला व खाली मैदान स्थित है। इस खसरा संख्या/गाटा पर जल जीवन मिशन के अन्तर्गत टंकी का निर्माण कार्य नहीं किया जा रहा है।

3- याची का यह कथन कि खसरा संख्या 490/2 रकबा 0.3360 है० पर टंकी का निर्माण किया जा रहा है। असत्य है।

बिन्दुवार आख्या सादर प्रेषित।

जगन्नाथ लेखपाल तहसीलदार
मवाना (मेरठ)
तिरमल सिंह
राजस्व निरीक्षक
उप जिलाधिकारी मवाना।"

10. Report sent by Lekhpal, which is the annexed along with the instruction of Sub-Divisional Officer dated 18.09.2023

will also be relevant for perusal, which is as under:

महोदय,

संलग्न पत्र कुनाल रवि सिंह चीफ स्टेंडिंग काउंसल हाई कोर्ट इलाहाबाद Fax/Court Case/Most Urgent office Fax 0532-2422773m0532-2423850 Civil Misc. Writ Petition (Notice) Pil No. 50685 of 2023 Sompal vs.State of U.P. and others के द्वारा ग्राम अफजलपुर उर्फ रानी नंगला तहसील मवाना जिला मेरठ में स्थित खसरा नं० 490/2 क्षेत्रफल 0.3660 है० पर प्राइमरी पाठशाला बनी है खसरा नं० 490/2 क्षेत्रफल 0.3660 है० में जल जीवन मिशन के अन्तर्गत टंकी निर्माण ना करने के सम्बन्ध में आख्या निम्न प्रकार है।

उक्त के सम्बन्ध में सादर अवगत कराना है कि ग्राम अफजलपुर उर्फ रानी नंगला परगना हस्तिनापुर तहसील मवाना जिला मेरठ में स्थित खसरा नं० 490/2 क्षेत्रफल 0.3660 है० में स्थल पर प्राइमरी पाठशाला व खाली मैदान स्थित है। तथा उक्त क्षेत्रफल प्राइमरी पाठशाला के उपयोग में आ रहा है। प्रश्नगत खसरा नं० 490/2 क्षेत्रफल 0.3660 है० पर जलजीवन मिशन के अन्तर्गत टंकी निर्माण का कार्य नहीं किया गया और ना ही भविष्य में किया जायेगा। आख्या सेवा में सादर प्रेषित है।

महोदय

लेखपाल आख्या प्रेषित।

तिरमल सिंह जगन्नाथ सिंह

राजस्व निरीक्षक क्षेत्र लेखपाल

11. In view of the report submitted by Lekhpal as well as instruction dated 18.09.2023 sent by Sub-Divisional Officer, Tehsil-Mawana, District-Meerut it is established that no construction of water tank is going on in Plot No. 490/2.

12. In view of the aforementioned facts, the instant P.I.L. is finally disposed of in terms of the instruction dated 18.09.2023 directing the authorities that they will not interfere with the possession of the Primary School in respect to plot No. 490/ 2 but authorities are free to construct water tank in plot belonging to them in accordance with law.

Order Date :- 16.10.2023/PS*