

Court No. - 51

Case :- WRIT - C No. - 32131 of 2023

Petitioner :- Awadhesh Singh

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

Counsel for Petitioner :- Shashi Bhushan Mishra

Counsel for Respondent :- C.S.C

Hon'ble Chandra Kumar Rai,J.

1. Heard Mr. Shahsi Bhushan Mishra, learned counsel for the petitioner and Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents.

2. The instant petition has been filed for mandamus directing respondent nos.5 & 6 to restrain respondent no.7 from making any construction over the disputed property in question as well as for mandamus directing respondent no.3 to decide the representation dated 30.6.2023.

3. Learned counsel for the petitioner submitted that civil suit no.393 of 2022 for injunction filed by the petitioner in respect to the property in dispute impleading the private respondent is pending before the civil Court. He further submitted that the proceeding under Section 25 of U.P. Revenue Code, 2006 has been decided in arbitrary manner, as such, petitioner has challenged the order passed in the proceeding under Section 25 of U.P. Revenue Code, 2006 by way of revision under Section 27 of U.P. Revenue Code, 2006 being Revision No.T202316670403299 (Awadhesh Singh vs. State of U.P. and Another). He further submitted that the authorities be directed to restrain the private respondent from interfering with the possession of the petitioner.

4. On the other hand, learned Additional Chief Standing Counsel for the State-respondents submitted that the civil suit filed by the petitioner is pending before the Civil Court, as such, petitioner should avail proper remedy in the pending suit rather writ petition before this Court. He further submitted that petitioner has challenged the order passed under Section 25 of U.P. Revenue Code, 2006 by way of revision, as such, writ petition is not maintainable. He placed reliance upon the judgment of this Court reported in 2019 (145) R.D. 857 (Hari Lal vs. State of U.P.).

5. I have considered the argument advanced by learned counsel for the parties and perused the records.

6. There is no dispute about the fact that with respect to the plot in dispute, the civil suit for injunction impleading private respondent is pending before the civil Court as well as revision filed by the petitioner against the order passed in the proceeding under Section 25 of U.P. Revenue Code, 2006 is pending before the Sub-Divisional Officer.

7. In view of the pendency of the proceeding before the civil Court as well as before revenue Court, no relief can be granted to the petitioner to restrain the private respondents from interfering with the possession of the petitioner in exercise of jurisdiction under Article 226 of the Constitution of India.

8. Writ petition is dismissed with liberty to petitioner to press the pending proceedings in accordance with law.

Order Date :- 16.10.2023

Rameez