

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2182 of 2023

Petitioner :- Shila Devi

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

Counsel for Petitioner :- Mahendra Tripathi, Rahul Shukla

Counsel for Respondent :- C.S.C., Krishna Kant Singh

Hon'ble Chandra Kumar Rai, J.

1. In compliance of the order of this Court dated 17.10.2023, instruction dated 23.09.2023 is placed before this Court, which is taken on record.

2. Heard learned counsel for the petitioner, Mr. Anand Bhaskar Srivastava, learned Standing Counsel for the State-respondents and Mr. Krishna Kant Singh, learned counsel for respondent No.5/Gaon Sabha.

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

"(i). issue a writ, order or direction in the nature of mandamus directing the respondent Nos.2, 3 and 4 to remove the illegal encroachment made by respondent no.6 over the public path situated at Village- Manpur Nagaria, Tehsil-Kasganj, District-kasganj, the public utility land, so that justice may be done".

4. On 17.10.2023 the following order was passed by this Court:

"1. Supplementary affidavit filed today is taken on record.

2. Counsel for the petitioner submitted that plot no.556 kha, 557 kha, 558 kha and 559 kha, situated at village Manpur Nagaria, Tehsil Kasganj, District Kasganj are recorded as rasta in the revenue records, particulars of which are mentioned in paragraph no.5 of the supplementary affidavit dated 15.10.2023, which are alleged to have been illegally encroached by respondent

no.6.

3. Sri Sridhar Tripathi, learned standing counsel is directed to obtain instructions with respect to the nature and status of plots, mentioned in paragraph no.5 of the supplementary affidavit dated 15.10.2023.

4. Put up this matter as fresh on 9.11.2023."

5. Mr. Anand Bhaskar Srivastava, learned Standing Counsel for the State-respondents on the basis of the instruction submitted that the dispute appears to be private in nature between petitioner and respondent No.6, as such the same is not maintainable. He further submitted that public passage is not recorded in the revenue record and for the private passage public interest litigation cannot be entertained.

6. I have perused the averment made in the writ petition as well as the instruction dated 23.09.2023 sent by respondent No.4.

7. Perusal of the averment made in the writ petition as well as supplementary affidavit and the facts mentioned in the instruction reveals that there is a private dispute between the petitioner and respondents No.6 as such the instant public interest litigation cannot be entertained in the matter.

8. Considering the entire facts and circumstances, the instant public interest litigation is dismissed.

Order Date :- 7.12.2023

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