

Court No. - 40

Case :- WRIT - C No. - 33468 of 2023

Petitioner :- Vijay Bahadur Yadav

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

Counsel for Petitioner :- Lal Chandra Yadav

Counsel for Respondent :- CSC

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Lal Chandra Yadav, learned counsel for the petitioner and Sri F.A. Ansari, learned Standing Counsel for the State respondents.

2. The petitioner is before this Court with request to issue direction in the nature of mandamus directing the Sub Divisional Magistrate, Kerakat, District Jaunpur (respondent no.4) to ensure compliance of injunction order dated 21.08.2020 passed by the Civil Judge (Junior Division) Shahganj, Jaunpur in Suit No.741 of 2020 (Vijay Bahadur vs. Sursati Devi).

3. Learned counsel for petitioner submits that the petitioner instituted aforesaid Suit No.741 of 2020 in the Court of Civil Judge (Junior Division) Shahganj, Varanasi, wherein a temporary injunction has been accorded on 21.08.2020 restraining the defendant/private respondent no.6 not to interfere in the peaceful possession of the petitioner and not to raise any construction over the land in dispute and the said suit is still pending consideration. He submits that direction may be issued to the respondents for ensuring compliance of said injunction accorded in favour of the petitioner.

4. Learned Standing Counsel submits that the dispute vis-a-vis between private respondent no.6 and petitioner. He further submits that the writ petition is not maintainable as there is serious dispute qua the rights/title of the property in question and the same cannot be adjudication in writ jurisdiction under Article 226 of the Constitution of India. A writ petition for enforcement of the common law remedies under Article 226 of the Constitution of India is not ordinarily maintainable for such reliefs against persons, who do not have any public duties to perform. The petitioner has adequate and efficacious alternative remedies of approaching the District Judiciary, at the first instance for seeking

aforesaid remedies.

5. Considering the facts and circumstances and the objection so raised by learned Standing Counsel, we are not at all inclined to issue any direction in the matter. In case an injunction order is being flouted or there is any breach of injunction by the defendants, the appropriate remedy for petitioner is to approach the Competent Civil Court by moving an application under Order XXXIX Rule 2A CPC.

6. With these observations, the writ petition is disposed of.

Order Date :- 13.10.2023

RKP