

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2201 of 2023

Petitioner :- Umashankar Mishra

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Awadhesh Kumar

Counsel for Respondent :- C.S.C.,Sudhir Bharti

Hon'ble Chandra Kumar Rai,J.

1. Heard Mr. Awadhesh Kumar, learned counsel for the petitioner, learned Standing Counsel for the State-respondents and Mr. Sudhir Bharti, learned counsel for the respondent- Gaon Sabha.

2. The instant public interest litigation has been filed by the petitioner saying that the petitioner or any of his relative does not have any private and personal interest in the matter and no benefit will be cause to have at present and in future rather the same has been filed purely in the public interest. The relief claimed in the instant P.I.L. is to direct the respondent to stop the construction of the Aganbadi building in the public utility land that plot no.103 (Khalihan) situated in Village- Rohuar Vishunpur, Tahsil-Sadar, District- Deoria and to direct the authorities to maintain the land of Khalihan as mentioned above. In the instant P.I.L., it is mentioned that plot no.103 is recorded as Khalihan in the revenue records. Copy of the Khatauni of 1426-1431 fasli is annexed as Annexure No.1 to the instant P.I.L. in which the plot no.103 area 0.1630 hectare is recorded as Class 6 (2) category land i.e. Khalihan. It is further mentioned that adjoining plot no.119 is reserved for the construction on Samudayik Bhawan and copy of the khatauni in respect to plot no.119 is annexed as Annexure No.2 to the P.I.L in order to demonstrate that the same is land of 6 (2) category (Samudayik Bhawan). It is also mentioned that the construction of Aganbadi building in the land reserved as Khalihan has been started by the authorities with ulterior motive, as such, appropriate direction be issued to the authorities to stop the construction of the Aganbadi building in the public utility land i.e. plot no.103 (Khalihan).

3. Learned counsel for the petitioner submitted that the instant P.I.L. has become infructuous, as such, the same may be dismissed as infructuous. He further submitted that an application for withdrawal has been filed which will

come before this Court day after tomorrow.

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

5. There is no dispute about the fact that plot no.103 is recorded as Khalihan and plot no.119 is recorded as Samudayik Bhawan in the revenue records.

6. The instant P.I.L. at the instance of the petitioner in respect to the land recorded as Khalihan and Samudayik Bhawan cannot be entertained as the land which is recorded in the revenue records in the name of State/ Gaon Sabha that will be maintained by the authorities in accordance with law.

7. The prayer made by learned counsel for the petitioner for dismissing the instant P.I.L. as not pressed or as infructuous is refused as public interest litigation cannot be filed and withdrawn in causal manner.

8. No interference is required in the instant P.I.L.

9. The instant P.I.L. is accordingly, ***dismissed.***

Order Date :- 31.10.2023

Rameez