

Court No. - 40

Case :- WRIT - C No. - 32929 of 2023

Petitioner :- Rammoorat

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Rakesh Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State respondents.
2. Present writ petition is preferred with a prayer to command the respondents to stop the construction work at plot of petitioners bearing Arazi No.282 in 1/3 and Arazi No.321 in 1/3 situated at Rawatpur, Madanpura, Tehsil Sahjanwa, District Gorakhpur and direct the appropriate/competent authority to take action against the private respondents. Further it is prayed to direct the respondents to restore the possession of petitioner at their old structure/boundary of land and not to alienate the property to the third party.
3. It transpires from the record that petitioner had already filed Suit No.142/2013 (Rammoorat vs. Nandlal) for cancellation of sale deed, which is pending consideration before Civil Judge (J.D.), Bansgaon, Gorakhpur.
4. At the very outset, learned Standing Counsel raised a preliminary objection regarding the maintainability of the instant petition by submitting that highly disputed facts are being pressed in the writ petition and in case petitioner is aggrieved with the intervention in his property, either by private party or even the State, he has got the efficacious remedy to approach to the competent civil or revenue Court. The said disputed facts cannot be adjudicated under Article 226 of the Constitution of India.
5. Once an objection is raised, we find that the core issue is as to whether in such facts, the writ petition is maintainable for enforcement of such disputed rights, which are claimed against the private individuals or even against the State.

6. Normally, the settlement of dispute relating to property rights between the private persons or even against the State, the Same cannot be adjudicated or pressed under Article 226 of the Constitution of India. The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes for which remedies, under general law, civil or criminal, are available. The jurisdiction under Article 226 of Constitution of India is special and extraordinary and should not be exercised casually or lightly.

7. Considering the facts and circumstances of the case, we are not inclined to adjudicate the matter. Needless to say, it is open to the petitioner to press the relief before the Competent Civil/Revenue Court.

8. With the aforesaid direction/observation, the writ petition stands ***disposed of***.

Order Date :- 19.10.2023

A. Pandey