

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2207 of 2023

Petitioner :- Ambika Prasad

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

Counsel for Petitioner :- Vindeshwari Prasad

Counsel for Respondent :- C.S.C.,Azad Rai

Hon'ble Chandra Kumar Rai,J.

1. Learned counsel for the petitioner is permitted to implead Tahsildar, Tahsil- Bara, District- Prayagraj as respondent no.7 in the array of the parties to the writ petition during course of the day.

2. Heard Mr. Vindeshwari Prasad, learned counsel for the petitioner, Mr. Shridhar Tripathi, learned Standing Counsel for the State-respondents and Mr. Azad Rai, learned counsel for the respondent- Gaon Sabha.

3. In compliance of the order of this Court dated 31.10.2023, Mr. Sridhar Tripathi, learned Standing Counsel for the State-respondent has placed the instruction dated 28.11.2023 before this Court, which is taken on record.

4. The instant public interest litigation has been filed for mandamus directing respondent nos.2 & 3 to evict the unauthorized occupants from plot no.187 area 0.046 hectare, which is recorded as Khalian in the revenue records.

5. Learned counsel for the petitioner submitted that the public utility land is in illegal possession of private respondent no.4 in collusion of respondent no.5 who is public servant. He next submitted that proper steps be taken for immediate removal of encroachment over the public utility land and enquiry be conducted against respondent no.5.

6. Mr. Shridhar Tripathi, learned Standing Counsel and Mr. Azad Rai, learned counsel for the respondent- Gaon Sabha submitted that in respect to plot no.187 area 0.046 hectare, proceedings under Section 67 (1) of U.P. Revenue Code, 2006 has been registered being Case No.T202302030706969, which is pending before Tahsildar,

Tahsil- Bara, District- Prayagraj. They further submitted that pending proceeding shall be decided in accordance with law.

7. I have considered the argument advanced by learned counsel for the parties and perused the record.

8. There is no dispute about the fact that plot in dispute is recorded as Khalihan in the revenue records and the proceedings under Section 67 (1) of U.P. Revenue Code, 2006 is pending before respondent no.7 i.e. Tahsildar, Tahsil- Bara, District- Prayagraj.

9. Considering the entire facts and circumstance, the instant public interest litigation is finally **disposed of** directing respondent no.7 i.e. Tahsildar, Tahsil- Bara, District- Prayagraj to decide the aforementioned Case No.T202302030706969 in accordance with law after affording proper opportunity of hearing to the parties, expeditiously preferably within a period of three months from the date of production of certified copy of this order before him.

10. Mr. Sridhar Tripathi, learned Standing Counsel is directed to serve a copy of the instruction dated 28.11.2023 upon learned counsel for the petitioner during course of the day.

11. It is made clear that this Court has not expressed any opinion on the merit of the case.

Order Date :- 29.11.2023

Rameez