

Court No. - 51

Case :- WRIT - C No. - 33294 of 2023

Petitioner :- Satish

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ram Bahadur Singh

Counsel for Respondent :- C.S.C, Sunil Kumar Singh

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Ram Bahadur Singh, learned counsel for the petitioner, Mr. Sunil Kumar learned Standing Counsel for State-respondent and Mr. Sunil Kumar Singh, learned counsel for respondent No.3/ Land Management Committee.

2. The instant petition has been filed to quash entire proceeding of Old Case No.9386 of 2016 computerized Case No.T2016112816019386 (Bhumi Prabandhak Samiti Vs. Satish) as well as new case No.RST/02258/2019, computerized Case No. T201911280102258 under Section 67 of U.P. Revenue Code 2006 as well as restraining the authorities to not interfere in the peaceful possession of the petitioner in respect to the petitioner's residential house.

3. Learned counsel for the petitioner submitted that proceeding under Section 67 of U.P. Revenue Code, 2006 has been initiated and order for ejectment and damages has been passed against the petitioner on 22.05.2017. He further submitted that petitioner applied for restoration/recall against order dated 22.05.2017 which was recalled and case has been again restored to its original number vide order dated 03.12.2021. He further submitted that after passing of the order dated 03.12.2021 proceeding is pending before the authorities but the authorities are not proceeding in accordance with law and the authorities

are not following the ratio of law laid by this Court in the case of Rishipal Singh Vs. State of U.P. & Others reported in 2023 (1) ADJ 154. He further submitted that initiation of the proceeding is nothing but abuse of process of law.

4. On the other hand, learned counsel for the Land Management Committee as well as learned Standing Counsel for the State-respondents submitted that after restoration of the proceeding, the objection has been invited by the petitioner but no objection has been filed as such instant writ petition filed by the petitioner to quash the proceeding of the case is not maintainable. They further submitted that petitioner should file proper objection before the Court concerned which shall be considered in accordance with law.

5. I have considered the arguments advanced by learned counsel for the parties and peruse the record.

6. There is no dispute about the fact that plot in dispute is recorded as Class-6(4) category land. There is also no dispute about the fact that proceeding under section 67 of U.P. Revenue Code, 2006 is pending before the Court after setting aside the order for ejectment and damages passed earlier.

7. Since proceeding under Section 67 of U.P. Revenue Code, 2006 is pending before Court concerned as such petitioner can avail proper remedy in pending proceeding.

8. Considering the entire facts and circumstances of the case the instant petition is disposed of with the direction that if petitioner files an objection in the Case No. RST/02258/2019 computerized Case No. T201911280102258, the same shall be taken into consideration and entire proceeding shall be concluded by the respondent No.2/Tehsildar, Sadar, Ghazipur

within a period of four months from the date of production of certified copy of this order after affording opportunity of hearing to both the parties.

Order Date :- 1.11.2023

PS*