

Court No. - 40

Case :- WRIT - C No. - 33559 of 2023

Petitioner :- Om Prakash And Another

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Satya Prakash Rathor

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Surendra Singh-I,J.

1. Heard Sri Satya Prakash Rathor, learned counsel for the petitioners and Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondents.

2. The present writ petition is preferred inter alia with following reliefs:-

"(A) Issue a writ, order or direction in the nature of writ of mandamus directing the respondent authorities to not interfere in peaceful possession of the petitioners over the plot no 2415 (M) area 0.420 hectare and plot no. 2416 (M) area 0.05 hectare situated in village and Tehsil Kulpahad, District Mahoba recorded in revenue record in the name of the petitioners pursuant to the Government Order dated 16.09.2015 issued by the State Government as well as Circular dated 19.12.2015 issued by the Director General of Police, U.P. Lucknow till the disposal of the Original Suit No. 2 of 2017 (Chandra Prakash and another Vs. Om Prakash and others) before the court of learned Civil Judge (J.D.) Kulpahad, Mahoba and Original Suit No. 170 of 2023 (Om Prakash Vs. Shri Prakash and another).

(B) Issue a writ, order or direction in the nature of writ of mandamus directing the respondents to maintain status quo over the plots in dispute till the final disposal of Original Suit No. 2 of 2017 (Chandra Prakash and another Vs. Om Prakash and others) and Original Suit No. 170 of 2023 (Om Prakash Vs. Shri Prakash and another)."

3. Learned Additional Chief Standing Counsel raised an objection regarding maintainability of the writ petition on the ground that admittedly Chandra Prakash had instituted the Original Suit No. 2 of 2017 against the petitioner and two others. The said proceeding is pending consideration. Moreover, the disputed facts cannot be pressed under Article 226 of the Constitution of India.

4. Considering the facts and circumstances, we are not inclined to entertain the writ petition.

5. Needless to say, it is open to the petitioners to invoke the remedy as available in law or to press the relief in the aforesaid proceeding.

6. The writ petition is disposed of.

Order Date :- 7.12.2023

Pratima