

Court No. - 40

Case :- WRIT - C No. - 35002 of 2023

Petitioner :- Surya Bhushan Singh And 2 Others

Respondent :- State Of U.P. And 21 Others

Counsel for Petitioner :- Girish Chandra Maurya, Prashant Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Ram Manohar Narayan Mishra, J.

1. Heard learned counsel for the petitioners and Shri Ambrish Shukla, learned Addl. Chief Standing Counsel for State respondents.

2. In view of the order proposed to be passed, notices need not go to private respondents.

3. Present writ petition has been preferred for following reliefs:-

"A. Issue a writ, order or direction in the nature of writ of mandamus directing the respondent nos.4 and 5 to demolish the boundary wall as illegally constructed by the respondent nos.7 to 22 in their presence and restore back the original nature of and plot no.570 area 0.0970 hectare situated in Village Bardiha Dalpat, Tappa-Dond, Pargana-Salempur Majhauri, Tehsil Salempur, District Deoria recorded in revenue record as general abadi.

B. 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.569 area 0.0200 hectare and plot no.570 area 0.0970 hectare situated in Village Bardiha Dapatt, Tappa-Dond, Pargana-Salempur Majhauri, Tehsil Salempur, District Deoria recorded in revenue record as general abadi 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.955 of 2022 (Paras Nath and others v. Satya Narayan and others) before the court of learned court of Civil Judge (JD), Deoria."

4. At the very outset, learned Addl. Chief Standing Counsel raised objection regarding the maintainability of the writ petition on two grounds. He firstly submits that highly disputed facts have been raised in this writ petition, which cannot ordinarily be adjudicated under Art.226 of the Constitution of India. Secondly, he submits that suit proceeding is pending consideration between the parties and the petitioners may agitate their claim in the pending suit proceeding at the first instance. Even the allegations against the State instrumentalities for illegal interference may also be pressed in the suit proceeding. As such it is contended that no interference is required in the matter.

5. Considering the facts and circumstances as well as the objections raised by learned Addl. Chief Standing Counsel, we are not inclined to interfere in the matter. Needless to say, the petitioners are at liberty to press their claim in the pending suit proceedings.

6. The writ petition stands **disposed of** accordingly.

Order Date :- 8.12.2023

SP/