

Court No. - 40

Case :- WRIT - C No. - 34500 of 2023

Petitioner :- Smt. Ranno Devi And 5 Others

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

Counsel for Petitioner :- Surendra Kumar Tiwari

Counsel for Respondent :- C.S.C., Hari Narayan Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Sri S.K. Tiwari, learned counsel for the petitioners, Sri S.C. Upadhyay, learned Additional Chief Standing Counsel for the State respondents and Sri Avinash Tripathi, Advocate holding brief of Sri Hari Narayan Singh, learned counsel for respondent no.5.

2. The instant writ petition is preferred seeking following main reliefs:-

"a) Issue a writ order or direction in the nature of certiorari quashing the impugned order dated 10.04.2018 passed by District Magistrate, Kannauj.

b) Issue a writ order or direction in the nature of mandamus to command the respondent no.2, Sub-Divisional Magistrate, Sadar, Kannauj for expeditious disposal of Case No.3/2017, Computerized Case No.D2017033903, Old Case No.3/2017, (Om Narayan and vs. Mohammad Nasir Khan and others), under Section 24 U.P. Revenue Code, 2006 pending before it.

c) Issue a writ order or direction in the nature of mandamus to restrain respondent no.4 for further construction work of the road upon the agricultural land of the petitioner, Arazi No.234, area 0.3480 hectare and Arazi No.297 area 0.1780 hectare situated at Village Jalesar Alipur Pargana, which is being illegally acquired by the State authorities for the purpose of construction of 9 meter wide road in Village without having any legal proceedings till the final disposal of Case No.3/2017, Computerized Case No.D2017033903, Old Case No.3/2017, (Om Narayan and vs. Mohammad Nasir Khan and others), under Section 24 U.P. Revenue Code, 2006 pending before respondent no.2 since six years and Old Case No.1 of 2015 (Om Narayan and others vs. Mohammad Nasir Khan and others), under Section 41 of Land Revenue Act."

3. It appears from the record that the petitioners had earlier approached this Court by preferring Writ-C No.3177 of 2017 (Smt. Ranno Devi and 5 others vs. State of U.P. and 3 others) wherein the case was set up that the respondents without resorting to any acquisition proceeding and also without any negotiation, the respondents have encroached upon a portion of their land for construction of 9 meters wide road in their village and the relief was sought that the respondents may be directed to restore the possession over their holding. The aforesaid writ petition was disposed of on 30.01.2017 wherein the Court had directed the Collector, Kannauj to take decision on the representation of the petitioners expeditiously.

4. The petitioners had also approached this Court by filing Writ-C No.24469 of 2021 (Samt. Ranno Devi and 5 others vs. State of U.P. and 4 others) praying for a direction to the Sub-Divisional Magistrate, Sadar, Kannauj to expedite the Case No.3/2017, Computerized Case No.D2017033903, Old Case No.3/2017, (Om Narayan and others vs. Mohammad Nasir Khan and others), under Section 24 U.P. Revenue Code, 2006 pending before respondent no.2 since six years, Old Case No.1 of 2015 (Om Narayan and others vs. Mohammad Nasir Khan and others), under Section 41 of Land Revenue Act, which was disposed of by learned Single Judge vide order dated 28.09.2021 directing the authorities to conclude the proceedings of aforesaid case within three months.

5. Learned Additional Chief Standing Counsel has raised an objection on the ground that in response to the directions issued by this Court vide order dated 30.01.2017 in Writ-C No.3177 of 2017 (Smt. Ranno Devi and 5 others vs. State of U.P. and 3 others), the claim of the petitioners has been considered by the Collector, Kannauj vide order dated 10.04.2018 and this writ petition has been filed at belated stage, hence, the same is liable to be dismissed on the ground of delay and laches. Insofar as the issue of demarcation is concerned, the petitioner has already filed Writ-C No.24469 of 2021 before learned Single Judge of this Court in which a direction was issued to conclude the proceedings within stipulated period. In case, the said proceeding is not concluded remedy is available to the petitioners to press the relief either in contempt or other provisions as available under U.P. Revenue Code, 2006 and the relief as sought cannot be granted at this stage.

6. Confronted with the situation, once we declined to entertain the writ petition, learned counsel for the petitioners states that he is not inclined to press the writ petition and the same may be disposed of leaving it open to the petitioners to press the relief before the appropriate forum/Court.

7. Accordingly, the writ petition is ***disposed of*** leaving it open to the petitioners to press the relief before appropriate forum/Court.

Order Date :- 6.12.2023

S.P.