

Court No. - 47

Case :- WRIT - C No. - 34306 of 2023

Petitioner :- Rama Shankar

Respondent :- State Of U.P. And 13 Others

Counsel for Petitioner :- Manish Kumar Singh

Counsel for Respondent :- C.S.C.,Pradeep Singh

Hon'ble Manish Kumar Nigam,J.

Re: Civil Misc. Amendment Application No.02 of 2023

1. Heard learned counsel for parties.
2. The present application has been filed for the following amendment:

"(i) A writ order or direction in the nature of mandamus, directing to the respondent no.2 to decide the representation of the petitioner dated 04.08.2023 to remove the illegal encroachment over the pond by the respondent nos.5 to 14 over the plot no.128 area of about 0.3790 hectare and plot no.77 area of about 0.2530 hectare situated at Village Anandipur, Pargana Ahraura, Tehsil-Chunar, District Mirzapur.

(ii) A writ order or direction in the nature of mandamus, directing to the respondent nos.2 and 3 to remove the illegal encroachment from the respondent nos.5 to 14, over the plot no.128 area of about 0.3790 hectare and plot no.77 area of about 0.2530 hectare situated at Village Anandipur, Pargana Ahraura, Tehsil-Chunar, District-Mirzapur."

3. The amendment application is **allowed**.
4. Learned counsel for petitioner is permitted to carry out the necessary amendments during the course of the day.

Re: In Writ

1. Heard learned counsel for the parties and perused the record.
2. The present petition has been filed with the following prayer:

I. A writ order or direction in the nature of mandamus, directing to the respondent no.2 to decide the representation of the petitioner dated 4.8.2023 to remove the illegal encroachment over the pond by the respondent nos.5 to 14 over the plot no.128 area of about 0.3790 hectare and plot no.77 area of about 0.253 hectare situated at Village Anandipur, Pargana Ahraura, Tehsil-Chunar, District-Mirzapur.

ii. A writ order or direction in the nature of mandamus, directing to the respondent nos.2 and 3 to remove the illegal encroachment from the respondent nos.5 to 14 over the plot no.128 area of about 0.3790 hectare and plot no.77 area

of about 0.253 hectare situated at Village Anandipur, Pargana Ahraura, Tehsil-Chunar, District-Mirzapur"

3. Learned Standing Counsel has raised a preliminary objection that the petitioner has an alternative remedy to approach appropriate authority by moving an application under Section 67 of the Uttar Pradesh Revenue Code, 2006 in view of the judgments passed by this Court in case of **Jahar Singh Vs. State of U.P.** reported in **2017(4) ADJ 619** and in **Public Interest Litigation (PIL) No.2117 of 2023 (Kanhaiya Lal Vs. State of U.P. and 14 others)**, decided on **27.9.2023**.

4. Since the petitioner has an alternative remedy, I am not inclined to entertain the instant petition.

5. In case, the petitioner moves an application under Section 67 of Uttar Pradesh Revenue Code, 2006, before appropriate authority, the same shall be decided after hearing all the concerned parties in accordance with law.

Order Date :- 8.11.2023

S. Singh