

Court No. - 47

Case :- WRIT - C No. - 36397 of 2023

Petitioner :- Jeet Singh

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Brij Bhushan Paul, Anand Prakash Paul

Counsel for Respondent :- CSC, Sher Bahadur Singh

Hon'ble Manish Kumar Nigam, J.

1. Learned counsel for the petitioner is permitted to amend the prayer clause of the writ petition during the course of the day.

1. Heard learned counsel for the parties and perused the record.

2. This writ petition has been filed for following reliefs:

"I) Issue a writ of certiorari calling for record of the case, quashing impugned Notice/Order dated 1.9.2023 issued by Respondent No. 3 Assistant Collector, Puwayan, Shahjahanpur (Annexure-1).

II) Issue a writ of mandamus declaring that petitioner have become Bhumidhar of property in question with non transferable rights under Section 123 of U.P. Zamindari Abolition & Land Reforms Act/Section 76 (dd) of U.P. Revenue Code, 2006.

III) Issue a writ order or direction in the nature of mandamus restraining Respondents not to interfere from interfering in peaceful actual physical possession of petitioner in respect of disputed portion of Plot No. 122 total area measuring 2.099 hectare, disputed area 1.405 hectare, situate in Village Balemau, Pargana and Tehsil Puwayan, District- Shahjahanpur.

VI) Issue a writ of mandamus directing Respondent No. 4 to decide the restoration application dated 07.11.2019 pending in Suit No. T-201912610203433 of 2019 for recall of order dated 03.07.2019 within a time bound programme"

3. Contention of learned counsel for the petitioner is that by an ex-parte order dated 03.07.2019, the land on which the petitioner was granted *assami patta*, it has been directed that same may be recorded as *Charagah*. Against the order dated 03.07.2019, the petitioner has filed a restoration application on 07.11.2019 which

is pending consideration before S.D.M. Puwayan, Shahjahanpur in Case No. T201912610203433. In the meantime without deciding the application, notice under Section 67(1) of the U.P. Revenue Code, 2006 have been issued against the petitioner, treating the petitioner to be unauthorised occupant. It has been further contended by learned counsel for the petitioner that in view of the provisions of Section 76 DD of the U.P. Revenue Code, 2006, the petitioner is entitled for protection. The petitioner has come before this Court challenging the notice issued under Section 67.

4. In view of the fact that the proceeding under Section 67 of U.P. Revenue Code, 2006 are pending and petitioner can contest the same by filing objections in those proceeding. I am not inclined to interfere in the matter.

5. Since the application for restoration is pending before the respondent No. 4- S.D.M. Tehsil- Puwayan, District- Shahjahanpur, it would be in the interest of justice that aforesaid restoration application be considered and decided by speaking and reasoned order, after hearing all the parties concerned with a period of two months from today, provided there is no other legal impediment.

6. The petitioner may also file his objections along with the certified copy of this order in proceedings under Section 67(1) of the U.P. Revenue Code, 2006 and request the court to adjourn the proceedings till disposal of the restoration application, which shall be considered in accordance with law by the respondents.

7. With these observations, present writ petition is **disposed of**.

Order Date :- 31.10.2023

Nitika Sri.