

Court No. - 40

Case :- WRIT - C No. - 34729 of 2023

Petitioner :- Smt. Sangeeta Gupta And Another

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

Counsel for Petitioner :- Lalit Kumar Srivastava, Vivek Kumar Shukla

Counsel for Respondent :- C.S.C., Ravi Anand Agarwal, Sunil Kumar Misra, Vijay Tripathi

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Learned counsel for the petitioner is permitted to implead "Property Manager, Sikandara, U.P. Awas Evam Vikas Parishad, Sikandara, Agra" as respondent no.7 to the writ petition forthwith.

2. Heard learned counsel for the parties.

3. We had heard the matter at length on 30.10.2023 and passed following order:-

"1. The matter was taken on 10.10.2023 and this Court has proceeded to pass a detailed order with following observations.

"1. Heard learned counsel for the petitioners; Sri Devesh Vikram, learned Additional Chief Standing Counsel for State respondent nos.1, 2, 4 and 5 and Sri Sunil Kumar Mishra, learned counsel for respondent no.3 (U.P. Awas & Vikas Parishad).

2. By means of present writ petition, the petitioners have prayed for direction to the respondent nos.2 to 5 to take action to vacate the house of the petitioners from illegal possession of private respondent no.6. They have further prayed for direction to respondent nos.2 and 3 to provide police force to the housing board for vacating their house.

3. Learned counsel for the petitioners submits that the petitioners were allotted House No.335/12A, Awas Vikas Colony, Agra on 25.10.2002 by the U.P. Awas Evam Vikash Parishad under "Pandit Deendayal Upadhyay Puram (Sikandara Yojna) Agra". In pursuance of the allotment letter dated 25.10.2002, they deposited the entire instalments between August, 2001 to May, 2004. Thereafter, the petitioners had requested to the Housing Board to give physical possession of the house in question and registration of the sale deed but inspite of several representations, neither physical possession was given to them nor sale deed was executed in their favour. The Executive Engineer, U.P. Housing Development Board had sent a letter on 29.10.2018 to the Station House Officer, Police Station Jagdishpura, District Agra for

vacating the house no.335, which has been illegally occupied by the private respondent no.6 namely Raj Kumar Singh. The Executive Engineer had also lodged an FIR against the private respondent no.6 on 05.11.2018, registered as Case Crime No.1121 of 2018 under Section 448 IPC. The petitioners have also made a representation before the Commissioner, Agra Division, Agra on 18.9.2023 for providing police force to vacate their house. It is submitted that the petitioners are running from pillar to post for vacating their house, which has been forcibly occupied by the private respondent no.6.

4. The petitioners claim to be rightful owner of the property in question which was duly allotted by the U.P. Avas & Vikas Parishad vide allotment letter dated 25.10.2002 and the said fact has been acknowledged and accepted by Sri Sunil Kumar Mishra, learned counsel for the respondent no.3.

5. Prima facie, we are of the opinion that in case the petitioners are allottee of the residential accommodation in question, then the alleged encroachment cannot be permissible in law.

6. Considering the facts and circumstances, we deem it appropriate to direct to the District Magistrate, Agra to take all remedial measures forthwith, in case there is no other legal impediment in the matter and an affidavit of compliance may be filed by the District Magistrate, Agra on the next date fixed in the matter.

7. Put up this matter for further orders on 30.10.2023 as fresh. "

2. In response to the aforesaid order, Sri Devesh Vikram, learned Additional Chief Standing Counsel has placed the detailed instructions sent by District Magistrate, Agra dated 28.10.2023 and the same is taken on record. He submits that possession of the property in question is already taken and handed over to the U.P.Avas Vikas Parishad.

3. Sri S.K.Mishra, learned counsel for the U.P.Avas Vikas Parishad submits that in case some reasonable time is accorded, definitely, registry of the property in question would also be ensured in favour of the petitioner by the respondent no. 3.

4. It has also been complained to us that in spite of sealing order by the State machinery, the respondent no. 6 again tried to enter inside the premises in question. In case, any such untoward incident take place, the District Magistrate, Agra is further directed to lodge FIR against the incumbent who has venture into this act. The State machinery would also ensure that the petitioner may not be unnecessarily harassed by the private incumbent in the meantime.

5. Put up this matter on 16.11.2023 as fresh."

4. While passing the aforesaid order dated 30.10.2023 we had directed the District Magistrate, Agra to take all remedial measures forthwith, in case there is no other legal impediment in the matter. Today, it is informed to us that in response of the aforesaid order, the illegal encroachments, which were on the spot, have already

been removed. Now, it is pressed that there is no other impediment for executing the sale deed in favour of the petitioners.

5. Learned counsel for the respondent no.3 states that he has no objection, in case the matter is disposed of asking the newly impleaded respondent no.7 to do needful in the matter.

6. Considering the facts and circumstances of the case, we **dispose of** the writ petition asking the newly impleaded respondent no.7 to execute the sale deed in favour of the petitioners.

7. The application filed for recalling the order dated 10.10.2023 is also disposed of.

Order Date :- 30.11.2023

RKP