

Court No. - 40

Case :- WRIT - C No. - 34872 of 2023

Petitioner :- Pradeep Kumar Agrawal And 2 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shivajee Singh Sisodiya

Counsel for Respondent :- C.S.C., Sanjay Kumar Om

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Sri Shivajee Singh Sisodiya, learned counsel for the petitioners, Sri Ambrish Shukla, learned Additional Chief Standing Counsel along with Mrs. Subhra Singh, learned standing counsel for the State-respondents and Sri Sanjay Kumar Om, learned counsel for the Jal Nigam, District Bareilly.

2. It is stated that the petitioners purchased abadi Plot No.122, situated at Mohalla/ Village Chandpur Bichpuri, Tehsil and District Bareilly from the original tenure holders by a registered sale deed dated 03.02.2023. Petitioners have moved application before Bareilly Development Authority, seeking permission for construction of houses over the aforesaid plot and they have obtained No Objection Certificates from Executive Engineer of P.W.D. District Bareilly, Tehsil Authority and Ceiling Department. For ingress and egress to the said plot, there is only one road or way available to the petitioners. On 21.09.2023, officers of the respondent No.4, i.e. Sub-Division Magistrate, Bithri Chainpur, District Bareilly started construction of a water tank upon the road situated in front of the petitioners' plot blocking the ingress and egress of the petitioners to the aforesaid plot. Even the PWD which also maintains road, objected to the construction of the aforesaid Water Head Tank through a letter dated 10.11.2023 written to the Jal Nigam, Bareilly, a copy of which has been shown to us. For stopping the aforesaid construction, they have filed several complaints before several authorities but of no avail. Therefore, they have preferred this writ petition praying for a direction in the nature of mandamus restraining the respondents from establishing Water Head Tank over the road situated in front of plot No.122.

4. Learned counsel for the petitioner has confined his prayer that his grievance be redressed by the competent forum, i.e. District Magistrate, Bareilly.

5. Mrs. Subhra Singh, learned standing counsel states that under Jal Jiwan Mission, the respondents are executing and

constructing water tank over the land which is public utility land and there is no illegality in the same.

5. Considering the facts and circumstances of the case, as the work is carried out under the huge Jal Jiwan Mission, which is for public purpose and definitely the work should not be halted but at the same time, authorities have to ensure that the said work may not cause inconvenience to another government department or private parties. Therefore, **the writ petition is disposed of** directing the the District Magistrate, Bareilly to decide the claim set up by the petitioner within ten days from today, after giving opportunity of hearing to the Executive Engineer, P.W.D., Bareilly as well as Executive Engineer, Jal Nigam, Bareilly.

7. A copy of this order be given free of cost to Sri Ambrish Shukla, learned Additional Chief Standing Counsel and Mrs. Subhra Singh, learned standing counsel for the State-respondents today itself.

Order Date :- 24.11.2023

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