

Court No. - 40

Case :- WRIT - C No. - 34783 of 2023

Petitioner :- Ameen

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

Counsel for Petitioner :- Mujiburrahman

Counsel for Respondent :- C.S.C., Mritunjay Mohan Sahai

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State respondents and learned counsel for UPSRTC.

2. Present writ petition is preferred assailing the validity of impugned notice dated 14.03.2023 issued by Sub Divisional Magistrate, Naugarh, Siddharth Nagar-third respondent asking the petitioner to remove encroachment from the land bearing Gata no.124, which belongs to UPSRTC.

3. Learned counsel for the petitioner submits that petitioner has already filed a Civil Suit No.31/2023 (Munni Gupta and others vs. Assistant Regional Manager, Siddharth Nagar) seeking prohibition to interfere in the peaceful living of the petitioner over the land in question, wherein, inspite of notice, the respondent-Corporation has not entered appearance in the on-going proceeding and there is eminent danger for demolition of his holding.

4. Learned Standing Counsel submits that highly disputed facts are being pressed in the writ petition. In case the petitioner is aggrieved with the intervention in his property, either by private party or even the State, he has got the efficacious remedy to approach to the competent civil or revenue Court seeking injunction. The said disputed facts cannot be adjudicated under Article 226 of the Constitution of India.

5. The core issue is as to whether in such facts, the writ petition is maintainable for enforcement of such disputed rights, which are claimed against the private individuals or even against the State.

6. Normally, the settlement of dispute relating to property rights between the private persons or even against the State, the Same cannot be adjudicated or pressed under Article 226 of the Constitution of India. The High Court cannot allow the

constitutional jurisdiction to be used for deciding disputes for which remedies, under general law, civil or criminal, are available. The jurisdiction under Article 226 of Constitution of India is special and extraordinary and should not be exercised casually or lightly.

7. Considering the facts and circumstances of the case, we are not inclined to adjudicate the matter. Needless to say, it is open to the petitioner to press the interim relief application before the Competent Civil Court, which shall be decided by the Court concerned expeditiously, without according unnecessary adjournment to either of the parties.

8. With the aforesaid direction/observation, the writ petition stands ***disposed of***.

Order Date :- 30.10.2023

A. Pandey