

Court No. - 40

Case :- WRIT - C No. - 34959 of 2023

Petitioner :- Ram Sudhar

Respondent :- State Of U.P. And 10 Others

Counsel for Petitioner :- Vijay Kumar Tiwari, Abhishe Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Ram Manohar Narayan Mishra, J.

1. Heard learned counsel for the petitioner and Shri R.M. Upadhyay, learned Addl. Chief Standing Counsel.

2. Present writ petition has been preferred for following reliefs:-

"I. Issue a writ, order or direction in the nature of mandamus directing to respondent No.4 to 6 not to interfere in peaceful possession over the Arazi No.440, Area-0.0180 Hect. on which petitioner is over on possession by making Toilet, Bathroom, Hand-Pump, Nand and Khunta, situated at Village Dehduaar, Pargana-Mahul, Tehsil-Martinganj, District-Azamgarh.

II. Issue a writ, order or direction in the nature of mandamus directing to respondent no.2 not to interfere in peaceful possession of petitioner over the Arazi no.440, Area-0.0180 Hect., situated at Village-Dehduaar, Pargana-Mahul, Tehsil-Martinganj, District-Azamgarh in compliance of order dated 29.5.2023 passed by Civil Court in Case No.2389 of 2020 (Ram Sudhar v. Panna Lal) and further be directing to respondent no.2 to take legal action against the respondent no.4 to 6, in the interest of justice, otherwise petitioner shall suffer."

3. On the matter being taken up today, learned Addl. Chief Standing Counsel has raised preliminary objection regarding the maintainability of the writ petition on the ground that entire relief has been claimed against the private respondents and highly disputed facts have been raised for adjudication. Moreover, suit proceeding is also pending consideration between the parties. The reliefs claimed in the writ petition can very well be pressed in the pending suit proceeding at the first instance. The allegation that the State respondents at the behest of private respondents are also interfering in the possession of the petitioner, the same can also be pressed in the suit proceeding. As such it is submitted that once alternative remedy is available, there is no reason or occasion to bypass the same and the writ petition is liable to be dismissed.

4. Considering the facts and circumstances of the case, we are not inclined to interfere in the matter. Needless to say, the petitioner can press his relief in the pending suit proceeding at the first instance.

5. The writ petition stands **disposed of** accordingly.

Order Date :- 8.12.2023

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