

Court No. - 52

Case :- WRIT - C No. - 35128 of 2023

Petitioner :- Savita Devi And Another

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Shashi Kant Upadhyay

Counsel for Respondent :- C.S.C.,Sudhir Bharti

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Shashi Kant Upadhyay, learned counsel for petitioners and Sri Anjani Kumar Chaurasiya, learned Additional Chief Standing counsel for State respondents.

2. Present petition has been filed seeking following reliefs:

"I. Issue a writ, order or direction in the nature of mandamus commanding and directing to the dispossess the petitioners from Gata no. 17 area 1.5 decimal situated in village Baikunthpur, Post Office Pratappur, Tehsil Bhatpar Rani, District Deoria."

3. On previous occasion, specific instructions have been called with regard to the proceedings initiated against the alleged encroacher by the revenue authorities. When the matter has been taken up today, learned Additional Chief Standing counsel came up with the detailed instructions which is taken on record, through which it has been transpired that the proceedings against the certain person along with petitioners has already been initiated under Section 67 of U.P. Revenue Code, 2006.

4. Learned counsel for the petitioners submitted that immediately after receiving the notices under Section 67(1) of Code of 2006, specific application under Section 67(a) has already been preferred since 2022 itself but respondent no. 3 without adjudicating the same proceeded under Section 67(1) of the Code of 2006.

5. Arguments raised by learned counsel for the petitioners seems to be forceful, specifically once the application under Section 67(a) has already been preferred by the petitioners and same is pending to be adjudicated there will be no useful purpose serve if the proceedings under Section 67 has been initiated against the petitioners, since the core question of possession over the land/property in dispute has to be determined first over the application preferred by the petitioners under Section 67(a) of the

Code of 2006.

6. In view of the aforementioned facts and circumstances, respondent no. 3 is hereby directed to decide the application preferred by the petitioners under Section 67(a) of the Code of 2006, in pursuance of the report, if sought in pursuance to the order dated 15.12.2022 and thereafter proceed under Section 67 of the U.P. Revenue Code, 2006.

7. Writ petition stands ***disposed of*** in terms of the directions made above. However, it is made clear for securing the interest of the petitioners, they may be permitted to prefer specific application before the respondent no. 3 for ventilating grievances with regard to maintain the peaceful possession over the plot in question and the same shall be decided within a month.

Order Date :- 28.10.2023

Shaswat