

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2344 of 2023

Petitioner :- Seraj Ahmad

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

Counsel for Petitioner :- Nagendra Pratap Singh

Counsel for Respondent :- C.S.C., Bhupendra Kumar Tripathi

Hon'ble Chandra Kumar Rai, J.

1. Heard learned counsel for the petitioner, Mr. Mridul Kumar, learned Standing Counsel for the State-respondents and Mr. Bhupendra Kumar Tripathi, learned counsel for the respondent- Gaon Sabha.

2. The instant public interest litigation has been filed for the following relief:

"i. issue, a writ, order or direction in the nature of mandamus directing the authority concerned to get vacate the land of Gaon Sabha from encroachment recorded as "Chak Marg" Arazi No.159 area 0.0230 Hectare and Arazi No.165 area 0.0190 Hectare situated at Village- Pahalwakpur, Masudpur, Pargana Shadiabad, Tahsil- Jakhaniya, District- Ghazipur."

3. This Court has directed the learned Standing Counsel to obtain instruction in the matter. In compliance of the order of this Court dated 6.11.2023, instruction dated 27.11.2023 was placed before the Court on 28.11.2023 and on 28.11.2023 following order was passed by this Court:

"1. Heard Mr. Nagendra Pratap Singh, learned counsel for the petitioner, Mr. Ravi Singh Parihar, learned Standing Counsel for the State-respondents and Mr. Bhupendra Kumar Tripathi, learned counsel for respondent- Gaon Sabha.

2. Learned Standing Counsel has placed the instruction dated 27.11.2023 before the Court, which is taken on record.

3. Learned Standing Counsel on the basis of instruction dated 27.11.2023 submitted that the plot nos.159 and 165 are recorded as Sector Marg / Chakmarg in the revenue records. He further submitted that demarcation of the aforementioned plots has taken place in presence of the petitioner as well as other villagers of the village and it has been found that the aforementioned plots are free from encroachment. He next submitted that spot memo prepared by the authorities has been signed by the petitioner also, as such, no interference is required in the matter.

4. Learned counsel for the petitioner is disputing the facts mentioned in the instruction dated 27.11.2023.

5. Learned counsel for the petitioner shall file reply to the instruction dated 27.11.2023 within two weeks.

6. Put up this case as fresh on 13.12.2023.

7. Learned Standing Counsel shall serve the copy of the instruction dated 27.11.2023 upon learned counsel for the petitioner during course of the day."

4. The instruction sent by Sub-Divisional Magistrate, Tahsil- Jakhania, District- Ghazipur demonstrates that plot in question which is recorded as sector marg / chak marg is free from encroachment.

5. In view of the aforementioned facts and circumstances, no cause of action survives in the matter.

6. The instant public interest litigation is accordingly, ***disposed of.***

Order Date :- 13.12.2023

Rameez