

Court No. - 51

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2396 of 2023

Petitioner :- Urmila Devi

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

Counsel for Petitioner :- Sharad Kumar,Ashok Kumar,Himanshu Pandey

Counsel for Respondent :- C.S.C.,Ashish Pandey,Pradeep Singh

Hon'ble Chandra Kumar Rai,J.

In Re: Civil Misc. Impleadment Application No.2 of 2023

1. Heard learned counsel for the applicant.
2. In view of the facts mentioned in the affidavit filed in support of the impleadment application, the impleadment application is allowed.
3. Office is directed to implead Ambuj Srivastava as respondent no.5 in the array of the parties to the writ petition within three weeks.

Order on Public Interest Litigation

1. Heard learned counsel for the petitioner, Mr. Himanshu Pandey & Mr. A. Kumar, learned counsel appearing on behalf of impleaded respondent no.5- Ambuj Srivastava, Mr. Govind Kumar Saxena, learned Additional Chief Standing Counsel for the State-respondents and Mr. Pradeep Singh, learned counsel for the respondent- Gaon Sabha.

2. On 1.11.2023 following order was passed by this Court:

"1. Instruction dated 9.10.2023 placed by Mr. Govind Kumar Saxena, learned Additional Chief Standing Counsel for the State-respondents is taken on record.

2. Heard learned counsel for the petitioner, Mr. Govind Kumar Saxena, learned Additional Chief Standing Counsel for the State-respondents, Mr. Ashish Pandey, learned counsel appearing on behalf of Ambuj Srivastava, who is not impleaded in the instant writ petition and Mr. Pradeep Singh, learned counsel for the respondent- Gaon Sabha.

3. The instant public interest litigation has been filed for the following reliefs:

"i. issue a writ, order or direction in the nature of mandamus directing the respondent authorities to ensure the remove the illegal encroachment on Gata No.125 area 0.0510 hectare (pond) situated in Village- Mamolapur, Pargana- Bhagwat, Tahsil- Chunar, District- Mirzapur forthwith to secure the ends of justice in the interest of public at large.

ii. issue a writ, order or direction in the nature of mandamus directing the respondent authorities to ensure the compliance of order of Hon'ble Supreme Court on Gata No.125 area 0.0510 hectare (pond) situated at Village- Mamolapur, Pargana- Bhagwat, Tahsil- Chunar, District- Mirzapur and set free forthwith from the illegal encroachment of anti social elements of muscle men for the use of villagers."

4. Mr. Ashish Pandey, Advocate submitted that Mr.Ambuj Srivastava son of Krishna Kumar Lal Srivastava, both are practicing lawyer of this Court and are owner of the plot no.125 have not been impleaded in the instant matter. He further submitted that earlier another family member of the petitioner of the instant public interest litigation has filed public interest litigation before this Court for the same cause of action being P.I.L. No.1330 of 2023, which was dismissed as not pressed by passing the reasoned order dated 31.5.2023 but without disclosing the fact of filing of earlier P.I.L., the instant P.I.L. has been filed. He further submitted that the order for ejectment and damages passed on 30.9.2023 has been recalled and the proceeding has been restored to its original number but petitioner has not disclosed that fact that order dated 30.9.2023 has been recalled and the proceeding has been restored to its original number.

5. Mr. Govind Kumar Saxena, learned Additional Chief Standing Counsel on the basis of the instruction dated 9.10.2023 submitted that the proceeding under Section 67 of U.P. Revenue Code, 2006 has been restored to its original number.

6. Learned counsel for the petitioner shall file affidavit stating as to why the material fact has been concealed from this Court and why not the cost be imposed against the petitioner for filing the instant public interest litigation concealing the material facts.

7. Put up this case as fresh on 29.11.2023."

3. The instant public interest litigation is nothing but abuse of process of Court as petitioner has concealed the material facts in the instant P.I.L. as mentioned in the earlier order as quoted above. Affidavit in support of the instant P.I.L. has also not been filed by the petitioner himself.

4. Considering the entire facts and circumstances as well as the concealment of material facts by the petitioner regarding filing of earlier P.I.L. by Nephew of the petitioner as well as the order for ejectment stated to be passed against the persons, has already been recalled, ***the instant public interest litigation is dismissed with cost of Rs.5,000/-.***

5. Petitioner is directed to deposit the cost of Rs.5,000/- in the account of Gaon Sabha in district- Mirzapur within two months failing which the Collector, Mirzapur shall recover the same from the petitioner- Urmila Devi w/o Vinod Kumar, resident of village-Mamolpur, Pargana-Bhagwat, Tahsil-Chunar, District- Mirzapur as arrears of land of revenue.

Order Date :- 12.12.2023
Rameez