

Court No. - 38

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2385 of 2023

Petitioner :- Kanhaiyalal Chaurasiya

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

Counsel for Petitioner :- Dhiraj Singh

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

Hon'ble Ashutosh Srivastava,J.

1. Heard Shri Dhiraj Singh, learned counsel for the petitioner ad Shri Sanjay Kumar Srivastava, learned Brief Holder for the State respondents.

2. This petition styled as PIL has been filed with the allegation that the respondent no. 3 has encroached upon the Arazi No. 112 situate in village Khukhundu, Tappa Khukhundu, Tehsil-Salempur, District-Deoria, which in the revenue record is recorded as Abadi. It is contended that the said Arazi No. 112 was recorded as Banjar in CH Form 45 and the same has now been changed to that of Abadi.

3. Reliance has been placed upon a decision of the coordinate Bench of this Court which was passed in similar circumstances in respect of an entry regarding pond. In the said order dated 04.10.2021, passed in Public Interest Litigation No. 1630 of 2021, it was observed that the encroachment if any could not be carried out unless revenue records are corrected. The said PIL was disposed of by requiring the petitioner to file an application before the Tehsildar concerned under Section 38 of the U.P. Revenue Code, 2006 who was directed to pass the necessary orders for correction of the records.

4. In the opinion of the Court the present writ (PIL) can also be disposed of by requiring the petitioner to prefer an application, under Section 38 of U.P. Revenue Code, 2006 before the respondent no. 2 i.e. Tehsildar, Tehsil-Salempur, District-Deoria, within a period of three weeks from today. In the eventuality of such application being filed, before the respondent no. 2 i.e. Tehsildar, Tehsil-Salempur, District-Deoria, it is expected from the respondent no. 2 to pass appropriate reasoned and speaking order thereon, within a period of three months, after giving due opportunity of hearing to the parties concerned, strictly in accordance with law.

5. With the aforesaid observations, the writ petition is ***disposed of***.

Order Date :- 13.10.2023

Deepak/