

Court No. - 52

Case :- WRIT - C No. - 36654 of 2023

Petitioner :- Praveen Kumar Srivastava

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Ravish Chandra Srivastava, Vijay Kumar Ojha

Counsel for Respondent :- C.S.C

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Vijay Kumar Ojha, learned counsel for the petitioner and Sri Brijesh Kumar Srivastava, learned Standing Counsel for the State-respondent nos.1 to 4.

2. The present petition has been preferred seeking the following relief:-

"I. Issue writ order or direction in the nature of mandamus commanding the respondent no.2 to take appropriate action against the respondent no.5 restraining him from grabbing the land being arazi no.31 admeasuring area 0.0196 hectare situated at village Karauni Pargana Dehat Amanat Tehsil Sadar District Varanasi till the disposal of the case no.12450 of 2022 (Smt. Chanda Devi versus Sri Jyoti Kumar Srivastava and others) under section 34/35 of U.P. Revenue Code, pending before the court Tehsildar Sadar Varanasi."

3. It is fairly admitted by learned counsel for the petitioner that several application has already been preferred before respondent no.4 under the administrative capacity but no proper application preferred by the petitioner for removing the illegal encroachment carried out by respondent no.5 over the land exclusively pertains to the petitioner.

4. The instant petition has been preferred by learned counsel for the petitioner for seeking the same relief under the proceedings which is pending at the behest of mutation initiated by one Chanda Devi and sought direction in the nature of mandamus commanding respondent no.4 for issuing direction against respondent no.5 not to encroach over the land pertains to the petitioner.

5. Learned Standing Counsel vehemently opposed the prayer as made in the petition on the ground that legal remedy available before the petitioner is crystal clearly defined under Section 134 of

U.P. Revenue Code, 2006 but no proceedings has ever been initiated against respondent no.5 and the prayer made in the petition cannot be granted by this Court since the proceedings whatsoever has been initiated by one Chanda Devi is also not a party in the present petition and as such, the proceedings initiated by aliening person who is not connected and concerned with the dispute between the petitioner and respondent no.5 and the same cannot be resolved by the administrative authority who is performing its duties under Section 34 of U.P. Revenue Code, 2006.

6. Argument so raised by learned Standing Counsel seems to be forceful.

7. In view of the aforesaid facts and circumstances, the present petition stands **disposed of**. However, the petitioner is at liberty to avail all other legal remedies as available to him under the statutory provisions.

Order Date :- 26.10.2023

Vivek Kr.