

Court No. - 40

Case :- WRIT - C No. - 36656 of 2023

Petitioner :- Hardam Singh

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

Counsel for Petitioner :- Lalit Kumar Shukla

Counsel for Respondent :- C.S.C,Avinash Chandra Srivastava

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Ms. Nand Prabha Shukla,J.

1. Heard Sri Lalit Kumar Shukla, learned counsel for the petitioner, Ms. Shubhra Singh, learned Standing Counsel for the State respondent nos.1 to 3 and Sri Avinash Chandra Srivastava, learned counsel for respondent no.4 (Gram Sabha).

2. By means of the instant petition, the petitioner has prayed for quashing the impugned show cause notice dated 31.5.2023 issued by the Assistant Collector/Tehsildar, Tehsil Govardhan, District Mathura (respondent no.3) in Case No.225 of 2023 (Gram Panchayat/Local Authority, Bajheda vs. Hardam), wherein he has directed the petitioner to remove the encroachment over Khasra Nos.280 and 281 situated in Village Bajheda, Tehsil Goverdhan, District Mathura and deposit the damages of Rs. 3,43,205/- within 15 days from the date of notice.

3. Ms. Shubhra Singh, learned Standing Counsel has raised an objection regarding maintainability of the writ petition on two grounds. Firstly, the petitioner alongwith other villagers had instituted a Original Suit No. 319 of 1992 (Rampal and others vs. Gaon Sabha) in the Court of Munsif, Mathura for permanent injunction. It is claimed that the said suit was decreed vide judgement and order dated 30.10.1993. She submits that in case the said decree is flouted, the petitioner has got efficacious remedy to press the execution case before the Competent Court. Secondly, she raised an objection that the present writ petition is preferred against the impugned show cause notice and without responding the same, the petitioner, on a disputed fact, has approached to this Court in writ jurisdiction by preferring the present writ petition, which is liable to be dismissed on the ground that till date the proceedings have not been culminated to its logical end.

4. Confronted with the aforesaid objection, learned counsel for the

petitioner submits that the petitioner has already filed an execution case and meanwhile leave may also be accorded to file an objection to the aforesaid show cause notice.

5. Be that as it may, we are not inclined to entertain the writ petition and pass any positive order in the matter. However, leave is accorded to the petitioner to press the relief before the appropriate Authority/Court.

6. With the aforesaid direction, the writ petition stands disposed of.

Order Date :- 26.10.2023

Puspendra