

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7541 of 2023

Applicant :- Vivek Kumar Shukla

Opposite Party :- Krishan Kumar Mishra, Tehsildar

Counsel for Applicant :- Rajesh Kumar Dubey, Prashant Kumar Pandey

Hon'ble Rohit Ranjan Agarwal, J.

The writ Court on 08.08.2022 in Public Interest Litigation (PIL) No.1415 of 2022 had passed the following order:-

"Heard learned counsel for the petitioner, learned Standing Counsel for respondent Nos. 1 to 4 and Sri Sudhir Bharti, learned counsel for the respondent No.4/Gram Sabha.

The petitioner has preferred the present Public Interest Litigation with the following prayer:-

"(a). Issue a writ, order or direction in the nature of mandamus commanding the respondent 1st Set to remove illegal encroachment from Arazi No.246 area 0.0490 hectare recorded as a manure pits, Arazi No.240 area 0.2310 recorded as road, area Arazi No.190 area 0.0280 hectare recorded as Banjar and Arazi No.193 area 0.0690 hectare recorded as a Pokhari situated in Gram Shahpur Shukla, Block Pathardeva, District Deoria being used as Public Utility Land from the respondent 2nd Set within stipulated period as directed by this Hon'ble Court."

Today when the matter is taken up, learned Standing Counsel raised a preliminary objection that the present P.I.L. is not maintainable as a complete procedure has been prescribed under Section 67 of the U.P. Land Revenue Code, 2006 for removal of unauthorized possession/encroachment and the petitioner must have been avail the aforesaid alternative remedy. It is argued by learned counsel for respondent that Sub Rule 6 of Rule 67 of Code Rules, 2016 provided that the authority concerned shall make an endeavour to conclude the proceedings initiated under Section 67 of U.P. Revenue Code, 2006 within a period of 90 days from the date of issuance of show cause notice. The aforesaid Rule is quoted below:-

"(6) The Assistant Collector shall make an endeavour to conclude the proceeding under section 67 of the Code within the period of ninety days from the date of issuance of the show cause notice and if the proceeding is not concluded within such period the reasons for the same shall be recorded."

He further argued that if the petitioner will avail the aforesaid remedy, the concerned authority will decide the same within time as provided Sub

Section 6 of Section 67 of Code Rules, 2016.

Since the petitioner has alternative statutory remedy for redressal of his grievances and he should avail the same instead of approaching this Court.

In this view of the matter, the present P.I.L. is not maintainable, the same is liable to be dismissed and is hereby dismissed.

In case, the petitioner initiates the proceeding under Section 67 of the U.P. Revenue Code before the concerned authority within a period of three weeks from today, the concerned competent authority is directed to conclude the proceeding within the time limit as provided Sub Rule 6 of Rule 67 of the U.P. Revenue Code Rules, 2016 after providing opportunity of hearing to all the parties concerned, if there is no legal impediment."

From the perusal of the aforesaid order, it is clear that the writ Court had declined to entertain the PIL and dismissed the same.

In view of the said fact as the PIL was dismissed itself, no case for contempt is made out.

Contempt application is misconceived and the same stands dismissed.

Order Date :- 13.10.2023

SK Goswami