

Chief Justice's Court

Case :- WRIT - C No. - 35851 of 2023

Petitioner :- Shamsul Ain And 4 Others

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

Counsel for Petitioner :- Krishna Kant Vishwakarma, Rajesh Kumar Singh

Counsel for Respondent :- C.S.C, Vibhu Rai

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Ashutosh Srivastava, J.

Heard Shri Rajesh Kumar Singh, learned counsel for the petitioners, Shri Vibhu Rai, learned counsel for the respondent Nos.2 to 4 and Shri Ishan Mehta, learned counsel for the State-Respondent No.1.

The writ petition has been filed seeking issuance of writ of mandamus commanding respondent/Development Authority to decide the application for sanctioning of the map dated 30.09.2023 and at the same time, a prayer to command the respondent/Development Authority not to demolish the houses of the petitioners situate over Agricultural Plot No.89 and 91 of Village Bamrauli Uparhar, Tehsil Sadar, District Prayagraj, Agricultural Plot No.478 situate in Village Ahmadpur Asrauli, Tehsil Sadar, District Prayagraj as also Agricultural Plot No.5 situate in Village Kutbanpur, Tehsil Sadar, District Prayagraj has been prayed for.

It is contended by learned counsel for the petitioners that petitioners have already filed an application seeking sanctioning of their maps and development authority is yet to take a decision thereon.

From the records, it transpires that notice under Section 27 (1) of U.P. Urban Planning and Development Act, 1973 was served upon the petitioners on 10.08.2022 and lastly on 05.09.2023 calling upon them to file response to the said notice within fifteen days.

Admittedly, petitioners have not responded to the said show cause notice, which they are bound to otherwise. Their apprehension is that the Development Authority without passing order on their pending application seeking sanction of map would proceed to demolish their houses.

In our opinion, the writ petition can be disposed of by requiring the

petitioners to file response to the show cause notice lastly issued on 05.09.2023 by apprising the authority that their application seeking sanctioning of map is pending consideration. They may do so within two weeks from today along with certified copy of the order of this Court.

No fresh notice would be required to be issued by the Development Authority as the order is being passed in the presence of the counsels representing the development authority as well as petitioners.

Once the objections are filed to the show cause notice, it is expected that the Development Authority shall proceed to consider the objections and pass appropriate orders within four weeks, thereafter, on both objections as well as on the application seeking sanction of map.

In view of above, the writ petition is **disposed of**.

Needless to say that we have not expressed any opinion on merits of the case of the petitioners. It shall be open to the authority concerned to pass the order, strictly in accordance with law.

Till six weeks from today, no coercive action shall be taken against the petitioners.

Order Date :- 16.10.2023

Amit/-

(Ashutosh Srivastava, J.)

(Pritinker Diwaker, C.J.)