

Court No. - 40

Case :- WRIT - C No. - 38039 of 2023

Petitioner :- Rinku @ Vijay

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Shriprakash Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State respondents.

2. Present writ petition is preferred inter-alia with following prayer:-

"I. Issue a writ, order or direction in the nature of mandamus commanding the respondents not to interfere in peaceful possession of the petitioner over the land bearing Gata No.1769 area 150 sq. meter situated in Village Parauli, Tehsil Bishauli, District Badaun and comply with the order dated 08.02.2012 passed by the Civil Judge (Junior Division) Bishauli, Badaun in Original Suit No.96/1999 (Kailash and others vs. Leeladhar and others)."

3. Learned counsel for petitioner submits that the grandfather of the petitioner namely Leeladhar was accorded lease of the property in question. The private respondents, on the basis of some alleged sale deed, tried to interfere in the property in question. They had also filed Original Suit No.96 of 1999 (Kailash and others vs. Leeladhar and others) in the Court of Civil Judge (Junior Division), Bishauli, District Hathras for permanent injunction on 17.12.2004 in which the grandfather of the petitioner filed written statement. Thereafter, the private respondents filed an application numbered as 69-Ga stating therein that they are not in a position to contest the case and the same may be dismissed as withdrawn. Finally, the Civil Judge (Junior Division), Bishauli had allowed the said application on 08.02.2012 and the private respondents were directed to pay Rs.1000/- to the grandfather of the petitioner as compensation within one month and they were restrained from filing any suit regarding the property in question. It is submitted that inspite of the aforesaid order, the private incumbents are still creating all sort of hindrance in the property in question and as such, direction may be issued to the State respondents for ensuring compliance of the order dated 08.02.2012.

4. Learned Standing Counsel submits that the dispute is between

private respondents and the petitioner. The writ petition is not maintainable as there is serious dispute qua the rights/title of the property in question and the same cannot be adjudicated in writ jurisdiction under Article 226 of the Constitution of India.

5. Considering the facts and circumstances and the objection so raised by learned Standing Counsel, we are not at all inclined to issue any direction in the matter. In case the ex-parte decree/injunction is being flouted or there is any breach of injunction by the defendants/respondents, the appropriate remedy of the petitioner is to approach the Competent Civil Court by moving an application under Order XXXIX Rule 2A CPC.

6. With these observations, the writ petition is disposed of.

Order Date :- 1.12.2023

RKP