

Court No. - 52

Case :- WRIT - C No. - 35811 of 2023

Petitioner :- Chandrahas Ramdayal

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Kalyan Sundram Srivastava, Arun Kumar Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Arun Kumar Srivastava, learned counsel for petitioner and Sri Rajesh Kumar Tiwari, learned Additional Chief Standing Counsel for the State-respondent nos.1 to 4.

2. It is the case of the petitioner that he is having residential accommodation maintained by his ancestors over plot no.302 which is entered in the revenue records as Abadi, the residential accommodation of the petitioner is perhaps at the boundary of plot nos.302 and 299 situated at Village Madar, Tehsil Kerakat, District Jaunpur. As and when, the petitioner initiated permanent construction over residential accommodation which was earlier temporary in nature, respondent authorities objected the same since it has been determined that the construction whatsoever has been carried out by the petitioner, is exceeding the boundary of plot no.302 and falling over plot no.299 which is recorded as property pertains to Gram Sabha in shape of Navin Parti.

3. Having the exclusive right over plot no.302 which is recorded as Abadi, several other persons including the petitioner are having their residential accommodations over the same, objection raised by the responding authorities has been challenged in shape of seeking mandamus commanding the respondents not to interfere in the peaceful possession of the petitioner as well as no objection may be raised by them in construction carried out by the petitioner.

4. On previous occasion, specific instructions were called and today, learned Additional Chief Standing Counsel came up with the specific instructions which are taken on record.

5. By bare perusal of the instructions, it has been transpired that the revenue authorities objected over the construction carried out by the petitioner only on presumption that the construction is

falling in the boundary of plot no.299 and as such, petitioner has been restrained from carrying out the permanent construction in shape of his residential house.

6. After having the arguments raised by learned counsel for petitioner, a precise query has been made before learned Additional Chief Standing Counsel that whether any proceedings for demarcation has been carried out before putting any objection in shape of direction not to carry out any construction before the petitioner?

7. Learned Standing Counsel fairly submitted that there is hardly any version available in the instructions.

8. Be that as it may, respondent no.4 is hereby directed to demarcate the plot no.299 in presence of the petitioner, at the same time, petitioner is also hereby directed to cooperate with the respondent no.4 while conducting the demarcation proceedings.

9. In case, after demarcation, the construction whatsoever has been carried out by the petitioner is falling within the boundary of plot no.299, the petitioner will have no right to carry out the construction.

10. The abovementioned exercise shall be carried out and finalized as expeditiously as possible, preferably within a period of three months from the date of production of a certified copy of this order before respondent no.4.

11. Till the outcome of proceedings under Section 24 of U.P. Revenue Code, 2006, all the parties are directed to maintain status quo over the plot in dispute.

12. With the aforesaid direction, the instant petition stands **disposed of**.

13. After the aforesaid order was dictated, Sri Kalyan Sundaram Srivastava, learned counsel for the petitioner submitted that a portion of plot no.299 has already been extended in favour of the petitioner in shape of residential lease and as such, at the time of demarcation of plot no.299 as directed above, portion of plot no.299 which has been extended in shape of residential lease in favour of the petitioner, be also demarcated.

Order Date :- 3.11.2023
Vivek Kr.