

Court No. - 47

Case :- WRIT - C No. - 36222 of 2023

Petitioner :- Rajesh Kumar

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

Counsel for Petitioner :- Pramod Kumar Sinha

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

Hon'ble Manish Kumar Nigam,J.

1. Heard learned counsel for the parties and perused the record.

2. The instant writ petition has been filed for following prayer:

"I. Issue a writ, order or direction in the nature of mandamus commanding the respondent not to construct the Chak Marg through the Gata No. 452, area 3.0492 hectare, situated at Ghanshyampur (Kora), Tehsil Bindki, District Fatehpur till the revenue Map of the said Gata No. is corrected as per the area mentioned in the Khatauni.

II. Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 2 to decide the interim injunction application dated 17.08.2023 of the petitioner pending in case No. D202300250001104 of 2023 (Rajesh Kumar Vs. Brijlal and others) pending before the court of Additional District Magistrate, (Judicial) Fatehpur."

3. Contention of the learned counsel for the petitioner is that at the spot and also in Khatauni, the correct area of the plot no. 452 has been mentioned whereas in the revenue map the area shown is less, therefore the petitioner filed an application under Section 38 of the U.P. Revenue Code, 2006 on 12.05.2023, which is pending. During the pendency of the aforesaid application, the respondents tried to construct a chak marg encroaching upon the area of the petitioner's bhumidhari land Gata No. 452.

4. The instructions were called by order dated 02.11.2023 which were received today and is taken on record. On the basis of instructions, learned Standing Counsel stated that chak marg is being constructed over Gata No. 451 & 505 and not over the Gata No. 452.

5. It has been further contended by learned counsel for the petitioner that since Gata Nos. 451 & 452 are adjoining numbers and taking advantage of the fact that the area shown in the map of the petitioner's land i.e. Gata No. 452 is less than the actual one, the respondents are encroaching upon the land of the petitioner.

6. Learned Standing Counsel submitted that this question can only be decided in proceedings for correction of map which are already pending.

7. In view of the rival contention of the parties, no useful purpose would be served in keeping this petition pending.

8. Since the petitioner has already moved an application for correction of revenue map under Section 38 of U.P. Revenue Code, 2006 in the month of May, 2023 and both the parties are present, let the same be decided in accordance with law, expeditiously, preferably within a period of one month from the date of production of a certified copy of this order after giving opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties provided that there is no other legal impediment.

9. Till the decision of the aforesaid application, the parties are directed to maintain status quo.

Order Date :- 23.11.2023

Ved Prakash

(Manish Kumar Nigam, J.)