

Court No. - 46

Case :- WRIT - C No. - 36366 of 2023

Petitioner :- Pramod Chaudhari And 3 Others

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

Counsel for Petitioner :- Ashok Kumar Pandey

Counsel for Respondent :- C.S.C., Tanisha Jahangir Monir

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

This petition has been filed with the prayer to issue a writ of mandamus commanding the fourth respondent not to demolish petitioners' house situated in Village Rajapur, Pargana Dasana, Tehsil and District Ghaziabad. According to petitioners, their house situates upon plot no.1190/9 which is not acquired and on the pretext of claiming right over plot no.1192 the authorities are interfering with the petitioners' possession.

Ms. Monir for the Nagar Nigam, Ghaziabad states that plot no.1192M 0.5060 hectare is recorded as johar (pond). It is submitted that the authorities have already proceeded against the encroachers under Section 67 of the U.P. Revenue Code, 2006. Contention is that petitioners are misrepresenting their construction as being over plot no.1190/9 whereas such construction actually exists on plot no.1192M.

From the materials placed on record, it appears that there is an issue of demarcation viz-a-viz plot no.1190/9 having an area of 15 biswansi viz-a-viz plot no.1192M, which apparently is recorded as a pond. Such issues of demarcation can more appropriately be examined by the competent authority either under Section 24 of the U.P. Revenue Code, 2006 or by approaching the civil court. A writ petition for such purposes would not be the appropriate remedy. It is, however, provided that in the event petitioners move an application for demarcation before the concerned revenue authority within two weeks from today, the grievance in that regard shall be entertained and dealt with, as per law, expeditiously.

For a period of six weeks, provided petitioners approach the concerned revenue authority within two weeks from today, or till disposal of the demarcation issue by the concerned revenue

authority, none of the existing constructions shall be demolished.
Petitioners are also restrained from raising any fresh construction.

Order Date :- 28.11.2023

RA