

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7652 of 2023

Applicant :- Pushpa Devi

Opposite Party :- S. Rajlingam, Dm

Counsel for Applicant :- Shanta Prasad, Anil Kumar Yadav

Hon'ble Rohit Ranjan Agarwal, J.

The writ Court on 26.05.2023 while disposing of Writ-C No. 16984 of 2023 passed the following order:-

"1. The petitioner claims to be owner of the land in dispute at the strength of registered sale deed dated 01.03.2019 and the allegation is that respondent No. 4 to 8 have taken illegal possession over the same and the petitioner has moved an application dated 15.04.2023 before the District Magistrate, Varanasi requesting delivery of possession to the petitioner or removal of the possession of the respondents.

2. This writ petition has been filed seeking a direction for consideration of the said application.

3. Learned counsel for the petitioner has placed reliance upon the Government Order dated 01.05.2017, in which State Government has issued a direction to all administrative and police authorities regarding action to be taken against the persons, who are in habit of making unauthorized possession over the Government or private properties. He has also placed reliance upon the order dated 02.08.2022 passed by this Court in Writ C No. 21634 of 2022 (Anju Devi vs State of U.P. and 6 others), which is quoted herein below:

"Heard learned counsel for the parties.

By means of this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for a writ of mandamus commanding the District Administration to ensure that the land grabbers and house grabbers do not interfere in the possession of the petitioner and those who have entered forcibly the house of the petitioner, should be ousted forthwith.

Learned counsel for the petitioner in respect of his prayer so made has placed reliance upon the Government Order dated 1st May, 2017 which provides for a district level task force to be headed by the District Magistrate to look into the grievances of the public to ensure that unauthorized people and land grabbers do not interfere in the possession and illegal possessions must be removed.

Learned Standing Counsel submits that the petitioner may be permitted to raise his grievances afresh before the District Magistrate and that may be

directed to be looked into, strictly in accordance with law.

In view of the above order, dealing with the merits of the claim of the petitioner, the present petition stands disposed of with the direction that in the event petitioner makes any such application in the light of the Government Order dated 1st May, 2017 to the District Magistrate within a period of three weeks from today, the same shall be looked into and be disposed of strictly in accordance with law and in the light of the Government Order dated 1st May, 2017 as expeditiously as possible preferably within a period of eight weeks of presentation of such an application.

Needless to add that the order to be passed by the District Magistrate shall be reasoned and speaking one."

4. Learned Standing Counsel submits that the aforesaid Government Order does not provide for dispossession of the encroachers, rather it speaks of various steps to be taken by the District and Police authorities, which include preparation of list of such land Mafias and also list of cases pending before the competent courts under relevant civil and revenue laws. Learned Standing Counsel also submits that direction is to conduct proper pairavi (persuasion) of the litigation in such matters, which include getting the interim orders vacated by the courts concerned.

5. Be that as it may, once I find that Government Order dated 01.05.2017 does not provide for direct dispossession of the alleged encroachers and statutory remedy being available to the petitioner under civil/revenue laws, this writ petition is being disposed of in the following terms:

(i) The District Magistrate shall look into the grievance of the petitioner as contained in application dated 15.04.2023, strictly in consonance with the Government Order dated 01.05.2017 and in the light of order dated 02.08.2022 passed by this Court in Writ C No. 21634 of 2022 (Anju Devi vs State of U.P. and 6 others), quoted herein-above.

(ii) It is made clear that taking steps as per Government Order would not include direct dispossession of the persons, if they are in possession of the property, but the District Magistrate shall certainly examine the scope of the Government Order and if required shall take appropriate steps.

(iii) The petitioner may also invoke jurisdiction of competent civil/revenue court for claiming a relief of injunction or otherwise, as may be advised to her.

(iv) In case, such proceedings are instituted, the court below shall proceed expeditiously in the matter and conclude the same expeditiously, after giving full opportunity of hearing to the parties concerned."

Pursuant to order, claim of the applicant has been decided by District Magistrate on 07.10.2023. Copy of which has been placed by applicant counsel, which is taken on record.

In view of said fact, as the order of writ Court has been complied

with, the contempt application is rendered infructuous and the same stands dismissed.

However, leaving it open to the applicant to assail the order passed by opposite party before the appropriate forum, if so advised.

Order Date :- 28.10.2023

V.S.Singh