

Court No. - 40

Case :- WRIT - C No. - 36398 of 2023

Petitioner :- Mujahid

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Ram Pratap Yadav, Devbratt Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

Heard learned counsel for the petitioner and Shri R.M. Upadhyay, learned Additional Chief Standing Counsel for the State.

Present writ petition is preferred inter-alia with following reliefs:-

"(i) Issue a writ, order or direction in the nature of mandamus commanding the Superintendent of Police, Azamgarh to proceed further in the matter pursuant to order passed by Up-Ziladhikari, Sagari, Azamgarh dated 11.02.2023 in Case No.T202315060700493 (Report vs. Mo. Sadiq) in regard to instituting the Criminal Proceeding against guilty persons as has been directed in the order for making fictitious entries over the land of the petitioner in record of rights, forthwith without any further delay, in the better interest of justice.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the Station House Officer, P.S. Bilariaganj to lodge the First Information Report under relevant sections of Indian Penal Code in view of the letter of the Area Lekhpal in consequence of the order passed by Up-Ziladhikari, Sagari, Azamgarh referred to above, in the better interest of justice."

It is claimed that private respondent nos.8, 9 and 10 have fictitiously got their name entered in the revenue record by initiating an application under Section 38(6) of the U.P. Revenue Code (in short the 'Code 2006'). It appears that when the said fact came to the knowledge of the Authorities, they have immediately proceed to recall the said order and thereafter various statements were taken in the matter.

Learned Additional Chief Standing Counsel raised an objection qua maintainability of the writ petition on the ground that petitioner claims to be *bona fide* purchaser of the disputed property. His name was entered in the revenue record with rider that the same would be subject to final outcome of proceeding pending in Case No.T202315060700493 (Report vs. Mo. Sadiq). He has also raised an objection that the petitioner is not exclusive owner of Gata No.1112 area 0.4670 hectare and as per the revenue record, he is only having staking of 1/6 share in the disputed

property. In this backdrop, he submits that once complaint is made and in response thereof, cognizance is taken by the respondent authority, then, at this stage, the writ petition is not liable to be entertained.

Once such an objection is made, we have proceeded to peruse the record. Once there is a dispute and it was complained that entry was fictitiously made under Section 38(6) of the Code 2006 and thereafter the same was recalled under Section 38(1) of the Code 2006, therefore, no direction can be issued for lodging of an FIR. Moreover, the Code 2006 is a self contained Code. Even the private respondents has got efficacious remedy to question the validity of the said order before the Authority concerned and the same can travel upto the Board of Revenue in appeal or revision.

Considering the facts and circumstances, no relief, as has been prayed for, can be accorded to the petitioner.

Consequently, the writ petition is ***dismissed***.

Order Date :- 31.10.2023

A. Pandey