

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7770 of 2023

Applicant :- Rajaram And 6 Others

Opposite Party :- Shri Mahendra Singh Tavar, District Magistrate And 3 Others

Counsel for Applicant :- Awadhesh Kumar Yadav

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court on 09.05.2023 in Writ-C No.11476 of 2023 had passed the following order:-

"1. Heard Sri Awadhesh Kumar Yadav, learned counsel for the petitioners, Sanjay Kumar Om, learned counsel for respondent no. 5 and Sri A.K. Mishra, learned counsel for respondents no. 1 to 4.

2. This writ petition has been filed seeking a writ of Mandamus for direction to respondents no. 2 to 4 not to construct water tank over the land in Gata No. 170 MI area 0.1260 hectare situated in village Pajrabhiri, Tehsil Menhdawal, District Sant Kabir Nagar, which is being used as cremation ground for last 40 years.

3. The claim of the petitioners in this writ petition is that the said land has been used as cremation ground for last 40 years. Over this land water tank is being constructed and there would be no place left for cremation. On the last date of listing of this petition, Sri Sanjay Kumar Om, learned counsel for the respondent no. 5 submits that the boring has already been completed and the construction work is going on. Uttar Pradesh Jal Nigam has also spent a substantial amount for the project of construction of the water tank and boring to provide drinking water to the residence of village and nearby villagers. He further submits that in revenue records the said land is mentioned as Banjar and nowhere in the revenue records, the said land is mentioned as Shamshan or cremation ground.

4. Sri A.K. Mishra, learned Standing Counsel on the basis of instructions submits that the land of Gata No. 170/0.441 and 170MI/00.194 hectare are recorded as Banjar and land in Gata No. 170 MI/0.247 hectare is recorded as Bhumidhari. However, the land of Gata No. 170/0.194 hectare is Banjar land and on this land, the water tank and boring work is carried on by the U.P. Jal Nigam under Jal Jeevan Mission. He further submitted that unauthorizedly upon this land, only one Jagannath son of Fakir was cremated. He further submitted that even from this cremation place, the water tank is being constructed 70 meters away. Further it is stated that people who went to cremate Jagannath son of Fakir had also given consent for construction of the water tank and boring etc. and after their consent the work has restarted.

5. There is no dispute at all in respect of construction of the water tank and boring. On the Banjar land, only the water tank is being constructed under the Jal Jeevan Mission, .

6. Considering the said instructions, I do not find substance in the present petition and the same is disposed of.

7. Petition stands disposed of as observed above."

From the perusal of the aforesaid order, it is clear that the writ Court had declined to interfere in the matter.

In view of the said fact as the writ Court had declined to interfere in the matter, no case for contempt is made out.

Contempt application is misconceived and the same stands dismissed.

Order Date :- 26.10.2023

SK Goswami