

Court No. - 40

Case :- WRIT - C No. - 37347 of 2023

Petitioner :- Rajendra Prasad Bora

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Alauddin, Malik Aalmeen

Counsel for Respondent :- C.S.C., Akhtar Ali, Prabhakar Dubey

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Ram Manohar Narayan Mishra, J.

1. Heard learned counsel for the petitioner, Sri Akhtar Ali, learned counsel for the respondent Nos.7 and 8 and Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondents.

2. The present writ petition is preferred inter alia with following reliefs:-

"(A) Issue a writ, order or direction in the nature of writ of mandamus directing the respondent authorities to remove the unauthorized construction/encroachment made by the respondent Nos.7 and 8 over the and of the road (in Urban commercial/residential land at a distance of 21 feet instead of 60 feet from the middle of the road), Nagar Panchayat, Shohratgarh, Tehsil- Shohratgarh, District Siddharth Nagar.

(B) Issue a writ, order or direction in the nature of writ of mandamus directing the respondent authority to decide the representation dated 11.9.2023 (Annexure No.3) pending before the respondent No.5 within stipulated time."

3. The present writ petition has been preferred alleging therein that respondent Nos.7 and 8 had made unauthorized construction over the road side and in view of Roadside Land Control Order, the said construction is impermissible. Even the road in question is notified under the National Highway. Under the Roadside Land Control Order, the permissible limit is beyond 60 feet from the mid point. Learned counsel for the petitioner submits that the complaint is to be addressed by N.H.A.I., as per the law.

4. Sri Akhtar Ali, learned counsel for the respondent Nos.7 and 8 opposed the prayer of petitioner on the ground that present writ

petition is preferred with concealment of material fact. The map was sanctioned by the prescribed authority. Even the petitioner and his wife had made various complaints as well as a Suit No.80 of 2017 (Usha Devi Bora Vs. Yashpal and others) was also filed but at no point of time, the competent authority i.e. N.H.A.I. has taken any objection that the construction raised by the respondent Nos. 7 and 8 is in violation to the provisions or hit under the Roadside Land Control Act.

5. Considering the objection, we are not inclined to entertain the writ petition on disputed facts.

6. Needless to say, it is open to the petitioner to invoke the remedy as available in law or to press the relief before the competent authority.

7. The writ petition is disposed of.

Order Date :- 8.12.2023

Kamarjahan