

Court No. - 21

Case :- WRIT - C No. - 37276 of 2023

Petitioner :- Pooja Devi

Respondent :- Union Of India And 9 Others

Counsel for Petitioner :- Rajiv Sharma

Counsel for Respondent :- A.S.G.I.,C.S.C.,Dileep Kumar Pandey

Hon'ble Manoj Kumar Gupta,Acting Chief Justice

Hon'ble Donadi Ramesh,J.

1. The instant petition has been filed challenging a communication dated 25.6.2022 by S.D.M. Sirathu, Kaushambi addressed to District Magistrate, Kaushambi in respect of complaint filed against the halka lekhpal. It states that the matter was got inquired into by Tehsildar and thereafter, it transpired that Nagar Panchayat had issued notices against unauthorized occupants for removal of their unauthorized possession within seven days, failing which, the administration would get the illegal possession removed. The petitioner has also called in question the notice dated 1.9.2023 issued by Executive Officer, Nagar Panchayat Daranagar, Kada Dham, Kaushambi mentioning that she is constructing over Arazi No. 541M area 0.0096 hectare. It is stated that the same is part of acquired land and therefore, she should forthwith stop the constructions.

2. The State-respondents have furnished written instructions, the same has been placed on record by Sri Rajiv Gupta, learned Additional Chief Standing Counsel. It mentions that the property in dispute is public property and the Executive Officer has referred the matter for initiation of proceedings under the Uttar Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1972 (hereinafter referred to as the Act) vide letter dated 18.11.2023 and

it is open to the petitioner to seek relief from competent court.

3. On enquiry made from Sri Rajiv Gupta, learned Additional Chief Standing Counsel as to whether there is any order for eviction of the petitioner under Section 5 of the Act, he express his inability to answer the query. He states that as per the instruction furnished to him, it does not appear that any order of eviction has been passed against the petitioner under the provisions of the said Act.

4. The Uttar Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1972 stipulates that preceding an order of eviction under Section 5, notice would be issued to the unauthorized occupant and after considering his reply and evidence, the prescribed authority would pass a speaking order.

5. In the absence of any order under Section 5 of the Act being brought on record, we dispose of the instant petition by providing that the respondents shall not interfere with the possession of the petitioner, except in accordance with law.

6. This order has been passed in the presence of Sri Dileep Kumar Pandey, learned counsel appearing for respondent no.1.

(Donadi Ramesh, J.)

(Manoj Kumar Gupta, ACJ.)

Order Date :- 6.12.2023

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