

Court No. - 51

Case :- WRIT - C No. - 36772 of 2023

Petitioner :- Jaisuniya

Respondent :- State Of U P And 11 Others

Counsel for Petitioner :- Mohd Hamid

Counsel for Respondent :- CSC, Sudhir Bharti

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Mohd. Hamid, learned counsel for the petitioner, Mr. Rajesh Kumar Dwivedi, learned State Law Officer for State-respondents and Mr. Sudhir Bharti, learned counsel for the respondent no.3/Land Management Committee.

2. The instant writ petition has been filed praying for a mandamus directing respondent No.2/ Sub Divisional Magistrate, Tehsil Tamkuhiraj, District Kushinagar to ensure compliance of its own order dated 30.07.2021 within stipulated period.

3. Learned counsel for the petitioner submitted that in pursuance of the order dated 30.07.2021 passed under Section- 24 of the U.P. Revenue Code, 2006, demarcation has taken place on the spot, but later on the private respondents have uprooted the boundary marks fixed in compliance of order passed under Section- 24 of U.P. Revenue Code, 2006. He further submitted that petitioner filed an application for re-fixation of boundary marks on the basis of the final order dated 30.07.2021 passed under Section- 24 of U.P. Revenue Code, 2006, which has been annexed as Annexure No.4 to the Writ Petition.

4. Mr. Rajesh Kumar Dwivedi, learned State Law Officer for State-respondents submitted that petitioner should file proper application under Sections- 22/23 of U.P. Revenue Code, 2006 rather than application under Section- 24 of U.P. Revenue Code, 2006, as such, this writ petition is not maintainable.

5. In view of the above facts and circumstances, without expressing any opinion on the merits of the issue, the present petition stands **disposed of** finally directing the petitioner to file a fresh application under Sections- 22/23 of U.P. Revenue Code, 2006 along with certified copy of this order before the respondent no.2/ Sub Divisional Magistrate, Tehsil Tamkuhiraj, District

Kushinagar, which shall be considered and disposed of in accordance with law, expeditiously and preferably within a period of **two months** from the date of filing of application under Sections- 22/23 of U.P. Revenue Code, 2006 along with certified copy of this order, after giving proper opportunity of hearing to the parties concerned and without granting unnecessary adjournments to either of the parties.

Order Date :- 27.10.2023

Saif