

Court No. - 51

Case :- WRIT - C No. - 37559 of 2023

Petitioner :- Smt. Shakuntala Devi

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Nagendra Kumar Singh

Counsel for Respondent :- C.S.C., Arun Kumar Pandey

Hon'ble Chandra Kumar Rai, J.

1. Heard Counsel for the petitioner, Mr. Rajesh Kumar Dwivedi, learned State Law Officer for the State respondents and Mr. Arun Kumar Pandey, Counsel for respondent no.4, Gaon Sabha.

2. The instant petition has been filed for the following relief:-

" To issue a writ of mandamus to the respondent no.2, Sub Divisional Magistrate, Tehsil Gunnaur, District Sambhal be directed to comply with his order dated 21.7.2023 and to ensure thiyabandi as over Gata No. 1655, Area 0.190 hectare and Gata No. 1656, area 0.316 hectare, situate in Village Nagliya Majra Kadrabad, Pargana Asadpur, Tehsil Gunnaur, District Sambhal and to restore the thiyabandi by installing pakka pillars over the aforesaid agriculture land be demarcated as per report dated 28.7.2023 of Revenue Inspector, 31.7.2023 and 3.8.2023 Tehsildar, Tehsil Gunnaur, District Sambhal, within stipulated period as fixed by this Hon'ble Court."

3. Counsel for the petitioner submitted that final order was passed in the proceeding under Section 41 of the U.P. Land Revenue Act and the order has been implemented on spot also but later on the private respondents have damaged the pillars fixed on spot in pursuance of the order passed under Section 41 of the U.P. Land Revenue Act. He submitted that petitioner has filed an application before Sub Divisional Officer but no steps has been taken for re-fixation of boundary marks in pursuance of the final order passed under Section 41 of the U.P. Land Revenue Act.

4. Mr. Rajesh Kumar Dwivedi, learned State Law Officer for the State respondents submitted that petitioner should avail proper remedy as provided under Section 22/23 of the U.P. Revenue Code, 2006 rather miscellaneous application.

5. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

6. There is no dispute about the fact that pillars have been fixed on spot in pursuance of the final order passed under Section 41 of the U.P. Land Revenue Act which have been damaged by the private respondents.

7. In view of the provisions contained under Section 22/23 of the U.P. Revenue Code, 2006, petitioner should initiate proper proceeding for re-fixation of boundary marks.

8. Considering the facts and circumstances, the instant petition is finally **disposed of** directing the petitioner to file proper application before Sub Divisional Officer under Section 22/23 of U.P. Revenue Code, 2006 within period **three weeks** from today which shall be decided by respondent no. 2, Sub Divisional Magistrate, Tehsil Gunnaur, District Sambhal in accordance with law expeditiously preferably within period of **three months** from the date of filing of application along with certified copy of this order after affording proper opportunity to both the parties in dispute.

Order Date :- 1.11.2023

Vandana Y.