

Court No. - 47

Case :- WRIT - C No. - 36816 of 2023

Petitioner :- Madan Mohan Singh

Respondent :- Union Of India And 6 Others

Counsel for Petitioner :- Mool Chandra Mishra, Hari Shankar

Counsel for Respondent :- A.S.G.I., Azad Rai, C.S.C.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Mool Chandra Mishra, learned counsel for the petitioner, Sri Azad Rai, learned counsel for the Gaon Sabha and Sri Anand Bhaskar Srivastava, learned Standing Counsel for the State.

2. Present petition has been filed for following relief;

A. Issue writ order or direction in the nature of Mandamus commanding/directing the respondents not to install water tanki on land in dispute i.e. Arazi No.65, having area 1.4270 hectare situated in Village-Gosaisipur, Pargana- Mah, Tehsil- Handia, District Prayagraj according to site plan dated 30.09.2023 given by respondent No.6 to the authorities concerned for installing the water tanki their upon, violating the order dated 27.05.1993 passed by the Court of 8th Additional Munsif Allahabad in Original Case No.345 of 1991 (Ramkishore and others vs. U.P. State and others), stated the Arazi No.65, having area 6 Bigha, 5 Biswa is in possession of plaintiffs and Additional District Judge/ Special Judge, Allahabad passed an order dated 18.08.1998 in Civil Appeal No.245 of 1993 (Aniruddh Pratap Singh and others vs Ramkishore Singh and others), in which the learned Appellate Court has passed order dated 18.08.1998, stated that the sons of late Badelal Singh including the petitioner are in possession and in occupation of the land in dispute and granted same relief.

3. Contention of counsel for the petitioner is that Araji No.65 was recorded as land of his father Bade Lal as well as his uncles namely Raj Kishor and Chandra Kishor in CH Form 45 but Tehsil authorities are installing water tank over that land. It is further submitted that the petitioner had filed a suit for injunction bearing Original Case No.345 of 1991 against the Gaon Sabha. Though the same was rejected and against that a Civil Appeal No. 245 of 1993

was filed which was allowed on 18.08.1998 and permanent injunction in favour of petitioner was granted restraining the Gaon Sabha not to interfere in possession of petitioner except otherwise in due course of law. This order has become final, therefore, possession of the petitioner cannot be disturbed in part of his land in Gata No.65.

4. This Court vide order dated 09.11.2023 directed the Standing Counsel to seek instructions.

5. In compliance of the aforesaid order, learned Standing Counsel has produced the instructions dated 27.11.2023 of SDM, Handia, Prayagraj. In the aforesaid instructions, it is clearly mentioned that the land of Arajji No.65 was recorded as Usar land in 1369F and thereafter during consolidation proceeding the same was recorded as ceiling land in CH Form 41. Thereafter in CH Form 45, names of father and uncles of the petitioner were incorrectly recorded. Subsequently, the same was corrected. In 1428-1433 fasli year, Arajji No. 65, area 1.427 hectare is again recorded as Usar land. Therefore, the proceeding under Section 67 of the U.P. Revenue Code, 2006 has been initiated against the petitioner and the same is pending.

6. Considering the submission of parties and perusal of record, it is clear that now Arajji No.65 has been recorded as Usar land and that order has not been challenged by the petitioner and proceeding under Section 67 of U.P. Revenue Code is also pending against the petitioner regarding the same land, therefore the petitioner has no right over the land of Arajji No.65.

7. In view of above position, the petitioner has no locus to stop the installation of water tank over the land of Arajji No.65, which is

recorded as Usar land.

8. Accordingly, the present petition is **dismissed**.

Order Date :- 28.11.2023

A.Kr.