

Court No. - 40

Case :- WRIT - C No. - 38644 of 2023

Petitioner :- Syed Zulfikar Hussian

Respondent :- State Of U.P. And 13 Others

Counsel for Petitioner :- Zafar Abbas, Sarve Nazir

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner and Sri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondent.
2. The present writ petition has been preferred for a mandamus commanding the respondent no. 2 to 5 to take appropriate action upon complaint of the petitioner and to restrain the private respondent no. 6 to 14 from making any illegal encroachment upon Arazi No. 134 situated at village Sarawan, Pargana Tehsil Phoolpur, District Azamgarh.
3. Learned Additional Chief Standing Counsel raised a preliminary objection regarding maintainability of the writ petition on the ground that the entire claim has been set up against the private incumbent. Even though the civil suit was instituted by the petitioner in the year 1982, which was registered as Original Suit No. 420 of 1982 and the same was decreed vide judgment and order dated 4.10.1988. He submits that in case the same is being flouted, the efficacious remedy is to press the execution case and such disputed facts cannot be agitated under the writ jurisdiction, as such, the present writ petition is liable to be dismissed on the ground of statutory alternative remedy.
4. Once an objection is being raised, we have proceeded to examine the record and we are of the considered opinion once the efficacious alternative remedy is available to the petitioner, there is no reason or occasion to bypass the statutory forum and the writ petition is liable to be dismissed on the ground of statutory alternative remedy.
5. Consequently, the writ petition stands disposed of with the aforesaid leave.

Order Date :- 5.12.2023

A.K.Srivastava