

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2505 of 2023

Petitioner :- Chaudhary Satyapal Singh

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Virendra Kumar Jaiswal

Counsel for Respondent :- CSC, Baleshwar Chaturvedi

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Ashutosh Srivastava, J.

Heard Sri V. K. Jaishwal, learned counsel for the petitioner and learned Standing Counsel for the State Respondents.

Considering the nature of the order that is proposed to be passed, the notice upon the private Respondent Nos.5 & 6 is being dispensed with.

The present Public Interest Litigation (PIL) has been filed seeking issuance of a Writ of Mandamus commanding the respondents to execute the order dated 29.03.2011 passed by the Additional Collector (City) Ghaziabad forthwith. It is contended by the petitioner that the Respondent No.5 has illegally occupied 813 sq. yard of Gata No.59 having an area of 0.075 hectare recorded as banzar. The said land earlier belonged to the Land Management Committee and has now come within the domain of Nagar Palika Parishad, Muradnagar, Ghaziabad. The proceedings under Section 122-B of the U.P.Z.A & L.R. Act was initiated by the Nagar Palika Parishad, Muradnagar, Ghaziabad against the Respondent No.5 which was registered as Case No.203 and vide order dated 29.07.2010 the Assistant Collector/ Tehsildar, Modinagar, Ghaziabad directed the dispossession of the Respondent No.5 from Khasra No.59M measuring 650 sq. yard and also imposed damages to the tune of Rs.13,000/- The said order dated 29.07.2010 was assailed by the Respondent No.5 in revision before the Additional Collector (City) Ghaziabad, which was numbered as Revision No.11/09-10 (Mohd. Haneef Vs. Nagar Palika Parishad, Muradnagar, Ghaziabad). The revision was also dismissed on merits vide order dated 29.03.2011, compliance of which is now being sought by means of the present Writ (PIL). It is contended that despite the orders of dispossession having been

passed against the Respondent No.5 as far back as in the year 2011, the same has not been executed till date.

From the record it transpires that the Respondent No.5 had filed an Original Suit being Suit No.1997 of 2009 (Mohd. Haneef Vs. Nagar Palika Parishad, Muradnagar, Ghaziabad through Executive Officer) before the Civil Judge (Sr. Division)/FTC, Ghaziabad. The said Suit was decreed in favour of the Respondent No.5 vide judgment and order dated 30.09.2016, wherein it was directed that the Respondent No.5 will not be dispossessed except in accordance with law. It is not clear from the records as to whether the Nagar Palika Parishad, Muradnagar, Ghaziabad assailed the judgment and order dated 30.09.2016 passed in Original Suit in Appeal. Learned counsel for the petitioner has also not been able to apprise the Court in this regard.

We have perused the order dated 30.09.2016 passed by the Civil Judge (Sr. Division)/FTC, Ghaziabad and find that the proceedings under Section 122-B of the U.P.Z.A. & L.R. Act have been duly taken note of in its judgment under the Issue No.4 and the Nagar Palika Parishad, Muradnagar, Ghaziabad has been permanently restrained from dispossessing the petitioner from Khasra No.59 area 500 sq. meter described by the letters A, B, C, D, Ka, Kha in the plaint map.

In view of the above, the relief claimed by way of the present Writ (PIL) appears to be misconceived. There is no merit in the Writ (PIL).

The Writ (PIL) is consigned to record.

Order Date :- 30.10.2023

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(Ashutosh Srivastava, J) (Pritinker Diwaker, CJ)