

Court No. - 52

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2584 of 2023

Petitioner :- Om Prakash

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

Counsel for Petitioner :- Ganesh Kumar

Counsel for Respondent :- C.S.C., Surendra Kumar Tiwari

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Ganesh Kumar, learned counsel for the petitioner and Sri Ajay Kumar Baranwal, learned Standing counsel appearing on behalf of respondent nos. 1 and 2 as well as Sri Surendra Kumar Tiwari, learned counsel for respondent no. 3.

2. Present petition has been filed seeking a direction in the nature of mandamus to be issued in favour of the respondents to remove the illegal encroachment made over the public utility land bearing plot no.1199, situated at Village Bhataha Jangal, Tehsil Harraiya, District Basti.

3. Today when the matter has been taken up, learned Standing Counsel came up with the specific instructions which is taken on record through which it has been transpired that against the illegal encroachment carried out over the said land, proceedings under Section 67 of the U.P. Revenue Code, 2006 was initiated against respondent no.4 and vide order dated 05.01.2023, respondent no.4 was directed to be evicted. Being aggrieved with the order dated 05.01.2023, respondent no.4 preferred a restoration application on dated 27.10.2023 seeking recall of the order dated 05.01.2023 which is still pending to be adjudicated by the competent authority and next date fixed in the matter is 29.11.2023.

4. On precise query made before learned counsel for petitioner, in a very fair manner, he replied that he is not aware about the proceedings with regard to filing of restoration application.

5. Considering the factual matter as apprised through instructions, there is hardly any cause of action arises in favour of the petitioner to pursue the instant petition during pendency of restoration application preferred by respondent no.4, however petitioner will be at liberty to seek same relief as prayed through the instant petition after disposal of the matter by respondent no.2 finally with regard to confirmation of order passed in shape of evicting illegal encroachment.

6. Accordingly, the present petition stands **disposed of**.

Order Date :- 24.11.2023/Vivek Kr.