

**Court No. - 40**

**Case :-** WRIT - C No. - 37679 of 2023

**Petitioner :-** Paras Nath Yadav And Another

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Udai Prakash Deo Pandey

**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 S.C. Upadhyay, learned Standing Counsel for the State-respondents.

2. The present writ petition has been filed seeking following reliefs:-

*"(i) Issue a writ, order or direction in the nature of mandamus directing the respondent no.3, the Divisional Forest Officer, Sonbhadra not to dig over the plot no.4448kha, area 0.1140 hectare situated in the village Bill, Markundi, Pargana-Agori, Tehsil-Obra, District-Sonbhadra and also he may be restrained from demolishing the houses etc. existing over the plot in dispute.*

*(ii) Issue a writ, order or direction in the nature of mandamus directing the Collector, Sonbhadra, to decide the representation dated 11.08.2023 filed by the petitioners and also not to dispossess them.*

*(iii) Issue a writ, order or direction in the nature of mandamus directing the respondents and their officials/employees not to interfere into the peaceful possession and cultivation of the petitioners over the plot no.4448 Kha area 0.1140 hectare situated in the village Bill, Markundi, Pargana-Agori, Tehsil-Obra, District-Sonbhadra and also not to dispossess them."*

3. Learned counsel for the petitioners in support of his submission has placed reliance on order dated 2.8.2023 passed in **Writ C No.24533 of 2023 (Yogesh Krishn vs. State of U.P. and others)** wherein the petitioner was claiming that the land in dispute has not been recorded in favour of the Forest Department whereas the petitioners are claiming certain rights on the basis of judgment passed by Division Bench in **Public Interest Litigation (PIL) No.56003 of 2017 (Adivasi Vanvasi Maha Sabha, Chandauli v. Union of India and others)**, which was disposed of vide order dated 11.10.2018 leaving it open to the petitioners' association to make individual application under Section 6 of the Act of 2006 for seeking recognition of their forest rights. In support of his submissions he has also placed reliance on the judgment passed in **Writ C No.44551 of 2013 (Rameshwar Chaudhary vs. State of U.P. and others)**. In support of his submission reliance is also placed on revenue record of Fasli Year 1428-1433. The dispute is qua plot

no.448 kha(area 0.1140 hectare). He submits that vide order dated 28.11.2018 and 4.11.2003, the petitioners' entry has not been expunged and still the petitioners claim their valuable right over the property in dispute. He submits that in view of **Adivasi Vanvasi Maha Sabha (supra)**, the relief has to be accorded in favour of the petitioner.

4. Considering the factual aspect of the matter as the entire claim has been set up on the basis of revenue record, we are not inclined to adjudicate the matter. Let the competent authority redress the grievances of the petitioners, expeditiously, preferably within six weeks from the date of production of a certified copy of this order, in case, it is not already decided.

5. With the aforesaid observation, this writ petition stands disposed of.

**Order Date :-** 29.11.2023

Manish Himwan