

Court No. - 40

Case :- WRIT - C No. - 38678 of 2023

Petitioner :- Ashok Pal Singh And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Karunesh Narayan Tripathi

Counsel for Respondent :- C.S.C

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel appearing for the petitioner and Sri Devesh Vikram, learned Additional Chief Standing Counsel for the State respondents.

2. By means of this petition the petitioner has sought following reliefs:-

"I. Issue a writ order or direction in the nature of mandamus commanding and directing the respondent no.2 to restrain the respondent no.4 not to change the nature of land or create third party right over 1/3 part of land of Gata Nos.149, 259, 145 and 258 situated in Village Vikrampur Taharpur, Tehsil and District Sambhal.

II. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent no.2 to decide the representation dated 09.10.2023 filed by the petitioner no.1 within stipulated and reasonable period."

3. Sri Devesh Vikram, learned Additional Chief Standing Counsel has raised an objection regarding maintainability of the writ petition on the ground that there is civil dispute between the petitioner and the private respondent no.4 and as such, the writ petition is liable to be dismissed.

4. The petitioner is seeking enforcement of common law rights for protection of his property. The impleadment of the State respondents is not for claiming any constitutional or statutory rights against the State. They have been impleaded for taking action, for protection of the property rights against the private individuals.

5. A writ petition for enforcement of the extraordinary remedies under Article 226 of the Constitution of India is not ordinarily maintainable for such reliefs against persons, who do not have any public duties to perform. The petitioner has adequate and efficacious alternative remedies of approaching the civil or revenue courts, at the first instance for seeking the remedies.

6. The writ petition is disposed of accordingly.

Order Date :- 8.11.2023

RKP