

Court No. - 52

Case :- WRIT - C No. - 38425 of 2023

Petitioner :- Gyanendra Singh And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Birendra Singh

Counsel for Respondent :- C.S.C., Krishna Kant Singh

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Birendra Singh, learned counsel for petitioners, and Sri Dinesh Kumar Tiwari, learned Standing Counsel for the State-respondent nos.1 to 4 as well as Sri Krishna Kant Singh, learned counsel appearing on behalf of the respondent no.5.

2. The present petition has been filed with the following prayers:-

"a). Issue a writ, order or direction in the nature of mandamus directing the Collector, Etah to decide the application dated 14.07.2023 pending before him as expeditiously as possible or within a stipulated period which this Hon'ble Court may deem fit and proper.

b) Issue a writ, order or direction in the nature of mandamus directing the respondent authorities not to construct any Water-Tank or any building over the property of the petitioners during the pendency of the Civil Suit No.1712/2021 pending before the learned Civil Judge (J.D.) Etah."

3. Learned counsel for the respondent no.4 has raised a preliminary objection regarding maintainability of the present petition on the ground that once a declaratory suit bearing No.1712 of 2021 (Old No.62 of 2017) preferred by petitioners is already pending before learned Civil Judge (J.D.), Etah, no relief can be granted to petitioners as sought through the instant petition. If petitioners are aggrieved by any action of the responding authorities, they still have every opportunity of canvassing their claim before learned Civil Judge (J.D.), Etah.

4. The argument as advanced by learned Standing Counsel seems to be forceful.

5. In view of the aforesaid, the present petition is not maintainable. However, the petitioners are at liberty to raise all their grievances in the pending Suit No.1712 of 2021.

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

Order Date :- 7.11.2023

Vivek Kr.