

Court No. - 40

Case :- WRIT - C No. - 37767 of 2023

Petitioner :- Dharam Singh

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

Counsel for Petitioner :- Sheetla Prasad, Dharmendra Singh

Counsel for Respondent :- CSC, Sunil Kumar Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

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

2. The present petition has been preferred for seeking following reliefs:-

"A. Issue writ, order or direction in the nature of certiorari caking the records of the case and quash the order dated 18.9.2023 passed by District Magistrate, Bulandshahr (Annexure No.13 to the writ petition) and the respondent may be further restrain to not interfere in peaceful possession of the petition at any manner.

B. Issue a writ in the nature of mandamus as a detail enquiry report may be called for by constituting high level committee about the manipulation of public record relating to patta dated 30.09.1989 granted to the petitioner and others and the said report may be submitted before this Hon'ble Court for appropriate order or direction for the ends and interest of justice."

3. Learned counsel for the petitioner has submitted that residential patta was allotted in his favour over the plot in question. When the local authorities had started to harass the petitioner, he made several complaints/ representations but no reprieve has been accorded. Aggrieved with the same, ultimately he preferred Writ-C No.20852 of 2023 (Kamal Singh and others vs. State of U.P. and others) praying for a direction to respondents not to interfere in peaceful possession of the petitioner over the land in question. The said writ petition was disposed of on 24.7.2023 asking the respondents to redress the grievance of the petitioner. In spite of the aforesaid order, once the grievance of the petitioner has not been redressed, he had again preferred Writ Petition No.23720 of 2019, which was disposed of on 23.7.2019 directing the respondents to redress the grievance of the petitioner. In response to the aforesaid orders of the Court, eventually the District Magistrate, Bulandshahr has rejected the claim of the petitioner vide impugned order dated 18.9.2023 on the ground that the documents relied by the petitioner are forged and fictitious in nature. The order impugned is challenged on the ground that the same has been passed without application of mind and without rightly appreciating the evidence on record.

4. On the other hand, learned Additional Chief Standing Counsel has submitted that

the order impugned has been passed strictly in accordance with law and there is no infirmity in it. He has submitted that once the District Magistrate after considering the entire facts and circumstances as well as after appreciating the evidence on record has taken a prudent decision that the documents are fictitious in nature, the said finding of fact cannot ordinarily be adjudicating under Art.226 of the Constitution of India. If the petitioner is not satisfied with the order impugned, he may invoke the common law remedy as available in law.

5. We have proceeded to examine the record in question and find substance in the objection raised by learned Addl. Chief Standing Counsel. Once the District Magistrate after considering the entire material as well as evidence on record has taken a decision, the said factual aspect cannot ordinarily be examined/scrutinized under Art.226 of the Constitution of India. If the petitioner is aggrieved, he may invoke the common law remedy at the first instance. In view of this, at this stage, we are not inclined to interfere in the matter.

6. The writ petition stands **disposed of** accordingly.

Order Date :- 12.12.2023

Manish Himwan