

Court No. - 47

Case :- WRIT - C No. - 38663 of 2023

Petitioner :- Ramavtar

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Om Prakash Pandey

Counsel for Respondent :- C.S.C.,Sudhir Bharti

Hon'ble Arun Kumar Singh Deshwal,J.

1. Instructions filed today by learned Standing Counsel is taken on record.

2. Heard Sri Om Prakash Pandey, learned counsel for the petitioner and Sri Madan Mohan, learned Standing Counsel for the State.

3. Present petition has been filed for the following prayer:

"(i) issue a writ order or direction in the nature of mandamus commanding and directing the opposite party no.2-Sub Divisional Magistrate, Tehsil-Sadar, District-Maharajganj to restore possession of the petitioner putting to him into possession as well as demarcation should be made and stones and boundary may be fixed over plot no.2889/0.324 hectares situated in village and post-Dhaneva Dhanei, Tappa-Katsara, Pargana-Haveli, Tehsil-Sadar, District-Maharajganj, expeditiously, if possible, within a period of 2 months."

4. Contention of learned counsel for the petitioner is that though on his application u/s 24 of the U.P. Revenue Code, 2006 (hereinafter referred to as the 'Code, 2006'), order dated 21.01.2022 was passed by the Sub Divisional Magistrate but, on the spot, petitioner was not put into

possession after demarcation of the land in question.

5. In pursuance of the earlier order of this court, learned Standing Counsel produced instructions dated 24.11.2023 of the Sub Divisional Magistrate, District-Maharajganj in which it is mentioned that in pursuance of application of the petitioner, demarcation of land was conducted in presence of the petitioner and other villagers on 24.11.2023 and it was found that petitioner was in the possession of area 0.319 hectare in Gata No.2889. It is further mentioned in the aforesaid instructions that the neighbouring *chakdaar* Hasmat Ali has also filed recall application against the order dated 21.01.2022.

6. Accordingly, the petition is **disposed of** with a direction that if any restoration application has been filed against the order dated 21.01.2022 of the Sub Divisional Magistrate then same should be decided, within a period of one month in view of the law laid down by this court in **Daya Shankar vs. State of U.P. and 4 others; 2023 (6) ADJ 181** and after disposal of the aforesaid application, if there is no legal impediment, it is found that petitioner is not in possession over the land in dispute despite his entitlement then as per Section-24(2)(b) of the Code, 2006, he may be put into possession after proper demarcation of the land in his presence.

Order Date :- 28.11.2023

S.Chaurasia