

Court No. - 52

Case :- WRIT - C No. - 37342 of 2022

Petitioner :- Smt. Rani Devi

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

Counsel for Petitioner :- Prabha Shanker Pandey, Sandeep Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Prabha Shanker Pandey, learned counsel for petitioner and Sri Rajkumar Singh, learned Standing Counsel for the State-respondents.

2. The present petition has been filed for seeking quashing of the order dated 26.09.2022 passed by respondent no.2 in Case No.522 of 2022 (Smt. Rani Vs. Gaon Sabha), under Section 67(5) of U.P. Revenue Code, 2006 and order dated 20.05.2022 passed by respondent no.3 in Case No.4971 of 2021 (Gaon Sabha Vs. Smt. Rani), under Section 67 of U.P. Revenue Code, 2006.

3. It is the case of the petitioner that notice under Section 67(1) of U.P. Revenue Code, 2006 was issued against the petitioner on 30.06.2021 by respondent no.3 alleging illegal encroachment carried out by her over gata no.419 area 0.186 hectare, situated at Village Madora, Tehsil Orai, District Jalaun which is a banzar land by putting soil over 120 square meter, whereupon petition submitted her reply on 11.04.2022 wherein it was mentioned that no illegal encroachment has been carried out by her and her house has been constructed over the land in dispute prior to notification of consolidation operation. The respondent no.3 vide order dated 20.05.2022 passed order for eviction of the petitioner and also imposed penalty upon her.

4. Being aggrieved with the order dated 20.05.2022, petitioner preferred an appeal under Section 67(5) of U.P. Revenue Code, 2006 before respondent no.2 on the ground that no illegal encroachment has been carried out by her and she has put soil only over the area of 120 square meter for restraining the water logging, the appeal has also been dismissed by respondent no.2 vide order dated 26.09.2022 which impugned the present petition.

5. Learned counsel for the petitioner submitted that the order

impugned dated 20.05.2022 has been passed by respondent no.3 only on the basis of statement of concerned Lekhpal without considering her objection wherein it was mentioned that no measurement of the plot in question has been taken. Learned counsel for the petitioner further submitted that gata no.419 is situated just adjacent to the pond and the soil which was collected over the plot in question, has been put by the Land Management Committee for restraining the water logging in the rainy season and as such no illegal encroachment has been carried out by the petitioner and the orders impugned are illegal in the eye of law.

6. Per contra, learned Standing Counsel vehemently opposed the prayer as made in the petition and supported the orders impugned by submitting that the petitioner herself put soil over area of 120 square meter for the purposes of illegal encroachment over the public utility land and as such the orders impugned are just and proper.

7. After having submissions as raised by learned counsel for both the parties and perusal of the orders impugned, the Court finds that no illegality or infirmity has been committed by the revenue authorities while passing the orders impugned, the petitioner has also not produced any evidence before the concerned revenue authorities to show that she has not encroached upon the land in question and she herself admitted that the soil has been put by her over the land in question.

8. In view of the aforesaid facts and circumstances, the present petition lacks merit and is hereby by **dismissed**.

Order Date :- 18.10.2023

Vivek Kr.