

Court No. - 47

Case :- WRIT - C No. - 38395 of 2023

Petitioner :- Radhey Shyam And 23 Others

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

Counsel for Petitioner :- Jay Prakash Gupta

Counsel for Respondent :- C.S.C., Hari Narayan Singh

Hon'ble Manish Kumar Nigam, J.

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

2. Heard learned Counsel for the parties and perused the record.

3. The present petition has been filed for the following relief:

"(i) Issue a writ, order or direction in the nature of mandamus directing to the respondents for stop the constructions of the water tank who has been constructed in Gata No.48 i.e. Bhumidhari of the petitioners without any demarcation and further direct to the authority shall demarcate the land of Gata No.47 who is relates to Usar Land and thereafter start the constructions."

4. The contention of learned Counsel for the petitioners is that the petitioners are Bhumidhar of Gata No.48, 114 and 116. Gata No.47 is a Usar land. Proposal has been made for construction of over head water tank at Gata No.47. It has further been contended by learned Counsel for the petitioners is that instead of constructing the over head water tank at Gata No.47, the respondents are constructing the over head water tank at Gata No.48, which is the Bhumidhari land of the petitioners.

5. On the basis of instructions, learned Standing Counsel has argued that the constructions are being made over Gata No.47 and not over Gata No.48. This contention of the State has been refuted by the petitioners saying that Gata No.48 lies besides the road, on which, the over head water tank is being considered. There has not been any demarcation of plot no.47 and 48 and taking advantage of the same, the respondents are encroaching upon the land of the petitioners.

6. In view of the disputed claims made by the petitioners as well as respondents, it is expedient that a proper demarcation be made of Gata No.47 and Gata No.48 and after the demarcation of land under Section 24 of the U.P. Revenue Code, 2006, the respondents may proceed further.

7. It is made clear that the petitioners will be associated in the aforesaid demarcation proceedings which should be concluded within a period of one month

from the date of production of certified copy of this order.

8. With these observations and directions, the writ petition stands **disposed of**.

9. Till the demarcation is done, the parties are directed to maintain status quo.

Order Date :- 22.11.2023

S. Singh