

Court No. - 49

Case :- WRIT - B No. - 3731 of 2023

Petitioner :- Jahiruddin And 12 Others

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

Counsel for Petitioner :- Madhusudan Dikshit

Counsel for Respondent :- C.S.C.,Jai Bahadur Singh,Kaushal Kishore Mani

Hon'ble Syed Qamar Hasan Rizvi,J.

1. Heard Sri Madhusudan Dikshit, learned counsel for the petitioners; Sri Jitendra Narain Rai, learned Additional Chief Standing Counsel for the State-respondents no.1, 2 & 4; Sri Kaushal Kishore Mani, learned counsel for the Land Management Committee-respondent no.5 and Sri Jai Bahadur Singh, learned counsel for the Nagar Nigam, Saharanpur-respondent no.3.

2. The case of the petitioners is that the petitioners are the recorded tenure holder of the plot bearing No.118 measuring area 1.194 hectares. The allegation of the petitioners is that the officials of the Nagar Nigam, Saharanpur are raising construction over the plot of land belonging to the petitioners without any authority of law.

3. Per contra, learned counsel appearing on behalf of the Nagar Nigam submits that the plot of land bearing No.118 is recorded as Johar.

4. Learned Additional Chief Standing Counsel on the basis of the written instructions submits that after the delimitation/extension of the area of the Nagar Nigam, the plot bearing Khasra No.118 situated at Village Manakmau falls within the territorial limit of Nagar Nigam, Saharanpur and as such the claim of the petitioners over the plot of land on the

basis of the order dated 09.03.2017, has no substance.

5. From perusal of the record, it is evident that the order passed by the Additional Commissioner (Administration) dated 19.09.2022 by means of which the order dated 09.03.2017 passed by the Sub Divisional Magistrate has been set aside, is under challenge before the learned Board of Revenue in Revision No. 4682 of 2022. In the said revision, the learned Board of Revenue vide order dated 30.09.2022 has passed the interim order staying the operation of the order dated 19.09.2022 and as such in effect the order dated 09.03.2017 has been revived.

7. Learned counsel for the petitioners submits that despite the clear interim order dated 30.09.2022 passed by the learned Board of revenue in his favour, the respondents are raising construction over the plot of land amounting to a clear violation of the interim order.

8. Learned counsel for the petitioners submits that he has already moved an application under Section 151 of C.P.C. before the learned Board of Revenue for appropriate direction in the matter but the same is still pending for orders. It has been further submitted that the next date fixed in the revision before the Board of Revenue (respondent no. 2) is 22.01.2024. The apprehension expressed by the learned counsel for the petitioners is that by that time, the respondents shall change the nature of land thereby causing irreparable loss and injury to the petitioners.

9. Considering the facts and circumstances of the case, this Court is of the view that no useful purpose would be served in keeping this writ petition pending.

10. Accordingly, this Court deems it appropriate to finally dispose of the writ petition with a direction to the learned Board

of Revenue, U.P. at Allahabad (respondent no.2) to consider and pass appropriate orders on the aforesaid application dated 30.10.2023 already moved by the petitioners, positively on the next date fixed in the matter.

11. It is provided that the parties shall strictly abide by the interim order dated 30.09.2022 passed by the learned Board of Revenue, without any fail.

12. With the aforesaid direction, the present writ petition is **disposed of.**

Order Date :- 30.11.2023

Abhishek Gupta