

Court No. - 40

Case :- WRIT - C No. - 38433 of 2023

Petitioner :- Kailash Babu

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

Counsel for Petitioner :- Amit Saxena

Counsel for Respondent :- C.S.C.,Avinash Chandra Srivastava

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Amit Saxena, learned counsel for the petitioner, Ms. Shubhra Singh, learned Standing Counsel for the State respondents and Mrs. Vibha Srivastava, Advocate holding brief of Sri Avinash Chandra Srivastava, learned counsel for Gaon Sabha.

2. The petitioner claims certain rights qua plot no.142, area 49 decimal, situate in Village Kishanpur, Tehsil Mahavan, District Mathura as he is co-sharer. It is also claimed that adjacent to the bhumidhari land of the petitioner, plot no.141 is situated, which belongs to the Gaon Sabha. In support of his submission, the petitioner has placed reliance on the relevant revenue record i.e. khatauni of 1427-1432 fasli.

3. Learned counsel for the petitioner states that the respondents are carrying out the development of overhead water supply tank under the Jal Jeevan Mission and they have also started digging the foundation of the tank by occupying an area measuring 13x57 meter (741 square meter). He further submits that the respondents are carrying out aforementioned activity without carrying out the actual demarcation and measurement even though the petitioner has filed an application under Section 24 of U.P. Revenue Code, 2006 for demarcation before the S.D.M. Mahavan, Mathura, even though the said proceeding is still pending consideration but in most arbitrary manner the respondents are carrying out the aforesaid activities.

4. Considering the facts and circumstances as there are disputed facts, we are not in position to make any observation whether such activity is going on over the petitioner's holding but needless to say it is always expected from the revenue authorities to carry out the actual demarcation and only thereafter such activities may be carried out.

5. Accordingly, we ***dispose of*** the writ asking the Sub-Divisional Magistrate, Tehsil Mahavan, District Mathura to finalize the proceeding of demarcation so that the petitioner's land may also be identified. The aforesaid exercise of demarcation may be completed by the third respondent within a period of six weeks from the date of production of a certified copy of this order before it.

Order Date :- 7.11.2023

S.P.