

Court No. - 21

Case :- WRIT - C No. - 38486 of 2023

Petitioner :- Azad Singh And Another

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

Counsel for Petitioner :- Sanjay Shukla, Sanjay Shukla

Counsel for Respondent :- C.S.C., Kaushalendra Nath Singh

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Donadi Ramesh, J.

1. The prayer made in the instant petition is for quashing the order dated 3.10.2023 passed by respondent No. 2 directing for demolition of constructions raised over Khasra No. 85-M. The demolition has been directed on the ground that the petitioner had raised constructions without obtaining approval from the Authority. It is recorded in the order that the land is situated in a development area and therefore, no construction was possible without obtaining permission from the Authority.

2. Learned counsel for the petitioners submits that the petitioners in their objection had taken specific plea that the land is being used for agricultural purposes. Two rooms are in existence over the said land for being used in connection with agricultural activities. These constructions are old one. According to him, there was no approval required in respect of constructions which were in existence prior to the area being declared as development area.

3. A perusal of the impugned order shows that the aforesaid plea of the petitioners has not been taken into consideration. There is no finding recorded in the impugned order that the constructions in question were raised after the area was declared as development area.

4. We are, therefore, of the opinion that the impugned order is not sustainable in law. It is, accordingly, quashed and the matter is remitted back to respondent No. 2 to return a specific finding as to when the constructions in question were raised. The aforesaid exercise shall be completed by respondent No. 2 within six weeks. Till then, both parties shall maintain status quo in respect of the constructions over the subject land.

5. In the result, petition stands allowed to the aforesaid extent.

Order Date :- 12.12.2023

Mukesh Kr.

(Donadi Ramesh,J.) (Manoj Kumar Gupta,A.C.J.)