

Court No. - 51

Case :- WRIT - C No. - 38787 of 2023

Petitioner :- Sohan And 4 Others

Respondent :- State Of U.P. And 24 Others

Counsel for Petitioner :- Girish Chandra Maurya

Counsel for Respondent :- C.S.C., Bhupendra Kumar Tripathi

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Girish Chandra Maurya, Counsel for the petitioners, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State- respondents and Mr. Bhupendra Kumar Tripathi, Counsel for respondent no.3, Gram Sabha.

2. The instant petition has been filed for mandamus directing the respondent no.2 to restrain the private respondent nos. 4 to 25 from interfering with the peaceful possession in respect to the residential lease executed in favour of the petitioner in view of the provisions contained under Section 65 of U.P. Revenue Code, 2006 as well as for mandamus directing the respondent no.2 to decide the representation dated 2.10.2023 filed by the petitioner.

3. Counsel for the petitioners submitted that in view of the residential lease executed in favour of the petitioner on 26.11.1999 which was approved also in accordance with law petitioners are entitled to the relief claimed in this writ petition. He further submitted that cancellation proceeding in respect to the lease in question was travelled to this Court and this Court in Writ C No. 32972 of 2023 filed by respondent no.6- Pankaj Kumar was allowed setting aside the orders dated 10.6.2022 as well as 17.5.2023 and matter has been remanded back for deciding the application filed under Section 115-F of U.P.Z.A. and L.R. Act afresh. He further submitted that petitioners' lease has not been cancelled till date, as such, there is no hindrance in considering the prayer of the petitioner as made in the writ petition as well as in the application/ representation dated

2.10.2023 filed before the authorities.

4. Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Bhupendra Kumar Tripathi, Counsel for Gaon Sabha submitted that since the writ petition filed on behalf of private respondent no.6 has been allowed and the matter has been remanded back before the Collector for fresh examination of the lease in question, as such, the prayer made in the writ petition cannot be granted rather petitioner should approach the Court of Collector where the proceeding in respect to the lease in question is pending.

5. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

6. There is no dispute about the fact that petitioners were granted residential lease on 26.11.1999 and the proceeding for cancellation is pending before Collector in view of the order passed by this Court in Writ C No. 32972 of 2023.

7. Considering the facts and circumstances of the case, the writ petition is **disposed of** with direction that petitioner should participate in the pending proceeding before the Collector where the lease question is to be examined in accordance with law.

Order Date :- 5.12.2023

Vandana Y.