

Court No. - 40

Case :- WRIT - C No. - 39279 of 2023

Petitioner :- Smt. Pramila Krishna Mani Shukla

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

Counsel for Petitioner :- Vinay Mishra, Mata Achal Mishra

Counsel for Respondent :- C.S.C, Arun Kumar, Pawan Kumar Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. The instant petition has been filed praying for a writ of mandamus commanding the respondents to pay compensation to the petitioner before demolishing his house for construction of under pass on Railway crossing on Andawan Kanihar Road.
2. The case of the petitioner is that he has not encroached any land and his construction exists over his own land. However, the respondents are threatening to demolish his house for constructing a Railway crossing.
3. Learned Standing Counsel on instructions states that the work in question is being carried out by Prayagraj Development Authority, Prayagraj and not by the State.
4. Sri Arun Kumar, learned counsel appearing on behalf of Prayagraj Development Authority (PDA), Prayagraj, has raised an objection regarding maintainability of the writ petition on the ground that as there is illegal construction over the roadside, the PDA had issued notices to the petitioner under Section 27(1) of U.P. Urban Planning and Development Act, 1973 (in short "the Act, 1973") indicating therein that the petitioner had raised the construction without sanction plan, which is going to affect the widening of road and that so is not permissible in law. He submits that without responding the said notice, straightaway the petitioner has approached this Court with aforesaid relief. He submits that in case the petitioner files objection to the said notice, definitely the same would be considered as per the Act, 1973. Even against finalisation of the proceeding under Section 27 (1) of the Act, 1973, the petitioner has got efficacious remedy to file appeal under Section 27 (2) of the Act, 1973. Even against the appellate order, the petitioner can prefer revision under Section 41 of the Act, 1973. He submits that without exhausting the remedy as available under the Act, the writ petition is liable to be dismissed with exemplary cost.
5. Confronted with this, learned counsel for the petitioner fairly states that so far as illegal construction, most of the occupiers are removing their constructions from the roadside but in case the PDA is utilising the petitioner's holding for widening the road, she is entitled for adequate compensation. He has confined his prayer that the petitioner may be accorded compensation in accordance with law.

6. Considering the facts and circumstances, as the grievance of the petitioner is only to get the compensation before demolition of her house, we dispose of the writ petition with direction to PDA to finalise the proceeding under Section 27 (1) of the Act, 1973 expeditiously and preferably within two weeks and in case the land is required for road widening, definitely the same is to be settled either on the amicable settlement or in the light of the relevant Government Order.

Order Date :- 23.11.2023

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