

Court No. - 47

Case :- WRIT - C No. - 38730 of 2023

Petitioner :- Chandra Prakash Shahi

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Pradeep Kumar, Chandresh Kumar Chaurasiya

Counsel for Respondent :- C.S.C

Hon'ble Manish Kumar Nigam, J.

1. Instructions submitted by learned Standing Counsel and supplementary affidavit filed by learned Counsel for the petitioner are taken on record.

2. Heard learned Counsel for the parties and perused the record.

3. The present petition has been filed for the following relief:

"1. To issue a writ of certiorari quashing the impugned order dated 4.9.2023 passed by respondent no.2, Sub Divisional Magistrate, Basgaon, District Gorakhpur asking the petitioner to initiate proceeding under the provisions of section 116 U.P Revenue Code, 2006 be quashed.

2. To issue a writ of mandamus be issued to the respondent no.2, Sub Divisional Magistrate, Basgaon, District Gorakhpur to pass an order to enter the name of the petitioner and respondent no.4 in the present Khatauni 1430-1435 fasli, Khata No.41, Gata No.2371.684 hectare in which the petitioner and respondent no.4 has been enter as joint owner of the aforesaid land and a separate Khatauni be issued in the name of the petitioner as well as respondent no.4 as 237/1 and 237/2 in the aforesaid land Gata No.0.842 hectare in respect of Village Belaveerbhan (Dhuriyapar), Tehsil Basgaon, District Gorakhpur in view of the facts that the partition has been taken place in between the parties and the name have been entered in Gata No.1640 in fasli year 1425 and separate Gates have been allotted to the petitioner as 237/1 in the name of petitioner and 237/2 in the name of respondent no.4 as per order dated 14.08.2018 under the provisions of section 116 U.P. Revenue COde, 2006 within stipulated period as fixed by Hon'ble Court."

4. Perused the impugned order. The dispute is regarding partition of the land of the petitioner with his co-tenure holder.

5. A preliminary objection has been raised by learned Standing Counsel that against the order impugned the petitioner has a remedy of filing a suit under Section 116 of

U.P. Revenue Code, 2006.

6. Since, the petitioner has an alternative remedy, I am not inclined to interfere in the matter.

7. Accordingly, the writ petition is **dismissed** with liberty to the petitioner to pursue the remedy available under the law.

Order Date :- 4.12.2023

S. Singh