

Court No. - 40

Case :- WRIT - C No. - 38953 of 2023

Petitioner :- Ram Dulari

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

Counsel for Petitioner :- Anoop Bhaiya Lal Shukla

Counsel for Respondent :- C.S.C

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and Sri Rajmohan Upadhyay, learned standing counsel for the State-respondents.

2. In view of the order we propose to pass, no notice is required to be sent to respondent No.4.

3. This writ petition is preferred for the following relief:

"Issue a writ order or direction in the nature of mandamus directing the Respondent no. 2 & 3 to decide the application dated 02.08.2023 & 12.10.2023 moved by the petitioner within short time and or to direct the Respondent no.2 & 3 to provide police force to petitioner for the cultivation of which are construction boundary by police force on dated 02.08.2023 on plot No.758/0.332 Hec. As well as could be properly compliance order of execution court, that may be fixed by this Hon'ble Court."

4. Learned Standing Counsel has raised an objection that the writ petition is not maintainable as earlier the petitioner had invoked the writ jurisdiction by preferring Writ-C No.8637 of 2023 (Ram Dulari vs. State of U.P. and 2 others), wherein it was prayed that a direction may be issued to respondent no.2-Senior Superintendent of Police, Jaunpur to decide the application of the petitioner dated 30.11.2022 and to provide the police force to the petitioner for construction of boundary over plot no.758/0.332 hect. as well as for a direction to the respondents to comply with the order of execution court. The said writ petition was disposed of on 21.03.2023 by Division Bench with detailed observation and directed respondent no.2 to redress the grievance of the petitioner. He submits that in response thereof, admittedly the said order has been complied in the presence of the revenue officials and even the petitioner had also made an endorsement on 05.08.2023. He submits that once the grievance of the petitioner has been redressed by the authorities in response to the aforesaid direction, at this belated stage for the same cause of action, a second writ petition is not maintainable.

5. On the other hand, learned counsel for the petitioner states that the alleged memo of possession was endorsed by the petitioner under duress and till date the grievance of the petitioner has not been redressed.

6. Considering the facts and circumstances of the case, we are not inclined to adjudicate the matter whether in response to the order of Division Bench dated 21.03.2023, claim of the petitioner had been redressed by the authority or not but as the Sub-Divisional Magistrate has taken cognizance on 12.10.2023 on the application moved by the petitioner which is also brought on record on page-28 of the writ petition as part of Annexure-3, needless to say that in case petitioner is still aggrieved, she may move an appropriate application before the Sub-Divisional Magistrate, Kerakat, District Jaunpur for redressal of her grievance. If such an application is moved, second respondent i.e. Sub-Division Magistrate, Kerakat, District Jaunpur shall consider the representation of petitioner and pass appropriate order, strictly in accordance with law, within six weeks from the date of filing of the representation/ application along with a certified copy of this order, but certainly after giving audience to all the stake holders in the matter.

7. With the aforesaid direction/ observation, the writ petition is **disposed of**.

Order Date :- 12.12.2023

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