

Court No. - 46

Case :- WRIT - C No. - 39459 of 2023

Petitioner :- Ramdas

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

Counsel for Petitioner :- Rituvendra Singh Nagvanshi, Ashok Kumar Yadav

Counsel for Respondent :- C.S.C., Vibhu Rai

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

1. Petitioner is aggrieved by an order of demolition passed by the Development Authority, which records that petitioner's construction existing over Khata No.00495 bearing Plot Nos. 698 and 821 which is recorded as Rasta (passage) and direction has been issued to remove the construction.

2. Learned Senior Counsel for the petitioner points out that petitioner was recorded over the aforesaid plot since long. The revenue entries existing in favour of petitioner, however, has been expunged by the Sub Divisional Officer, Sadar, vide his order dated 29.01.2015. According to petitioner, a revision referable to Section 38 (5) of the Revenue Code has been preferred, which is pending. Grievance is that on the one hand authorities are not considering petitioner's pending revision and at the same time existing construction of house is proposed to be demolished.

3. Sri Vibhu Rai, learned counsel for Nagar Nigam states that petitioner is no longer recorded over the property and has rightly been directed to demolish the construction.

4. In the facts of the case, it is apparent that petitioner was previously recorded in the revenue records till such entry got expunged in the year 2015. A statutory revision is admittedly pending against such order. In the facts of the case, we are of the view that petitioner's remedy would be to apply for appropriate interim protection in the pending revision. It is however, provided that if such interim application is moved within a week from today along with certified copy of this order, the revisional authority shall pass necessary orders upon it within a further period of six weeks, thereafter.

5. For a period of two weeks and in the event such stay application is filed or till its disposal within six weeks, whichever is earlier petitioner's standing consideration shall not be demolished. It is made clear that we have not adjudicated petitioner's right over the property on merits and such issues are left open to be examined by the competent authority, at first instance.

6. Subject to the above observations made, this petition stands **disposed of**.

Order Date :- 28.11.2023

Md Faisal