

Court No. - 40

Case :- WRIT - C No. - 39348 of 2023

Petitioner :- Rampal Singh

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

Counsel for Petitioner :- Seraj Ahmad

Counsel for Respondent :- CSC

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State respondents.

2. Present writ petition is preferred with a prayer to command the respondent nos.1 and 2 to restrain Station House Officer, P.S. Saraimamrej, Prayagraj-respondent no.1 from interfering in his possession over Arazi Nos.243, 853, 854, 867, 860 (new no.220), 858 situated at Maujpur, Tehsil Handia, Prayagraj.

3. It transpires from the record that petitioner had already filed Case No.73/1979 (Vijay Bahadur Singh and others vs. Ram Dular Singh and others), wherein, a decree was passed in his favour.

4. At the very outset, learned Standing Counsel raised a preliminary objection regarding the maintainability of the instant petition by submitting that highly disputed facts are being pressed in the writ petition. He has placed instructions dated 08.10.2023 sent by Sub Inspector, P.S. Saraimamrej, Commissionerate, Prayagraj and submits that Ram Dular Singh has no stake in the matter and one Ganga Ram Singh has also preferred a Case/Suit NO.554/2000 (Rampal Singh vs. Ram Lakhan Singh) pertaining to the disputed land against one Ram Lakhan Singh, which is pending consideration before Additional Civil Judge (JD), Court No.10, Allahabad. Even the son of Ram Lakhan Singh has also preferred Appeal No.1382/2019, Computerized Case No.201902000001382 (Ganga Ram Singh vs. Ram Pal Singh), which is also pending consideration before the Additional Commissioner (Administration), Division Prayagraj. In this backdrop, he submits that in case petitioner is aggrieved with the intervention in his property, either by private party or even the State, he has got the efficacious remedy to approach to the competent civil or revenue Court. The said disputed facts cannot be adjudicated under Article

226 of the Constitution of India.

5. Once an objection is raised, we find that the core issue is as to whether in such facts, the writ petition is maintainable for enforcement of such disputed rights, which are claimed against the private individuals or even against the State.

6. Normally, the settlement of dispute relating to property rights between the private persons or even against the State, the Same cannot be adjudicated or pressed under Article 226 of the Constitution of India. The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes for which remedies, under general law, civil or criminal, are available. The jurisdiction under Article 226 of Constitution of India is special and extraordinary and should not be exercised casually or lightly.

7. Considering the facts and circumstances of the case, we are not inclined to adjudicate the matter. Needless to say, it is open to the petitioner to press the relief before the Competent Civil/Revenue Court.

8. With the aforesaid direction/observation, the writ petition stands ***disposed of***.

Order Date :- 16.11.2023

A. Pandey