

Court No. - 40

Case :- WRIT - C No. - 39694 of 2023

Petitioner :- Rinki Verma

Respondent :- State Of U.P. And 10 Others

Counsel for Petitioner :- Rajnish Dubey

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Rajnish Dubey, learned counsel for the petitioner and learned Standing Counsel for the State respondents.

2. Present writ petition is preferred seeking following reliefs:-

"a. Issue a writ, order or direction in the nature of mandamus directing the respondent authority concerned to hand over the possession, share of residential house and shop to the petitioner from the respondent nos.9 and 11 situated in Mohalla Asitganj Old Kotwali, Tehsil Sadar, Police Station Kotwali, District Azamgarh in pursuance of the order of S.D.M. Sadar, District Azamgarh dated 13.09.2023.

b. Issue a writ, order or direction in the nature of mandamus directing the respondent no.3 Sub Divisional Magistrate, Sadar, Azamgarh to implement his order dated 13.09.2023."

3. Learned counsel for the petitioner submits that the father-in-law of the petitioner namely Shobh Nath purchased the land in question and built three storied houses in his life time, wherein 14 shops were constructed on the ground floor. He had also purchased some other property in which his eldest sons Manoj and Rajesh are living alongwith their family. Unfortunately, he died leaving behind the widow, four sons and three daughters. The petitioner alongwith her husband and Devar were living peacefully in her share. Once the respondent nos.10 and 11 tried to dispossess the petitioner from the property in question then the petitioner moved an application before the concerned Sub Divisional Magistrate on 11.09.2023 for taking action. On the said application the Sub Divisional Magistrate, Sadar, Azamgarh vide order dated 13.9.2023 directed the Station House Officer to take appropriate action in the matter and maintain peace on the spot but neither the possession was given to the petitioner nor any action was taken against the respondent nos.9 and 10. So far as the grievance of the petitioner is concerned, she has already filed a representation dated 21.09.2023 before the respondent no.3 for redressal of her grievance, which is still pending. He has confined his prayer only to the relief that her representation dated 21.09.2023 may be considered by the appropriate authority.

4. The petitioner has invoked the writ jurisdiction for enforcement of the order dated 13.9.2023 passed by the Sub Divisional Magistrate, Sadar, wherein it is claimed that the private respondent nos.9 to 11 may hand over possession of her share forthwith. The said order cannot be enforced under Article 226 of Constitution of India. However, it is always open to the petitioner to press the relief before the appropriate Authority/Court.

5. Accordingly, the writ petition is disposed of.

Order Date :- 1.12.2023

RKP