

Court No. - 51

Case :- WRIT - C No. - 40331 of 2023

Petitioner :- Smt.Durga Devi

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Somendra Singh, Geeta Kushwaha

Counsel for Respondent :- CSC, Sher Bahadur Singh

Hon'ble Chandra Kumar Rai, J.

1. Heard Mr. Somendra Singh, Counsel for the petitioner, Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Sher Bahadur Singh, Counsel for respondent no. 5, Bhumi Prabhandhak Samiti.

2. The instant petition has been filed for the following reliefs:-

"(i) Issue a writ, order or direction in the nature of mandamus commanding and directing to the respondent nos. 3 and 4 to deliver the physical possession of the Gata No. 633 and 634 to the petitioner in compliance of the order dated 23.6.2023 passed by respondent no.2, Commissioner, Bareilly Mandal Bareilly, District Bareilly which situated at the Revenue Village Khirni, Pargana Richha and Tehsil Baheri, District Bareilly.

(ii) Issue any other writ, order or direction in the nature of mandamus directing to the respondent authorities to measuring the boundary of the Gata Nos. 633 and 634 of the petitioner which situated at the Revenue Village Khirni, Pargana Riccha and Tehsil Baheri, District Bareilly."

3. Counsel for the petitioner submitted that proceeding under Section 41 of the U.P. Land Revenue Act has been concluded between the vendor of the petitioner and other parties. He submitted that petitioner filed an application before the authorities with the prayer that delivery of possession be affected in favour of petitioner in respect to plot No. 633. He further submitted that Commissioner has passed the order dated 28.6.2023 directing the Tehsildar to take action in accordance with law but no action has been taken by the authorities, hence this writ petition.

4. Mr. Abhishek Shukla, learned Additional Chief Standing Counsel for the State-respondents and Mr. Sher Bahadur Singh, Counsel for respondent no. 5, Bhumi Prabhandhak Samiti submitted that the miscellaneous application filed by the petitioner has been annexed as annexure No.2 to the writ petition on which an order has been passed by the Commissioner that appropriate action be taken in accordance with law. They further submitted that writ petition for compliance of the administrative order passed on the miscellaneous application cannot be

entertained.

5. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

6. There is no dispute about the fact that proceeding under Section 41 of the U.P. Land Revenue Act has been concluded and the appeal filed by the vendor of the petitioner has been dismissed.

7. Petitioner is vendee of the respondent no.7 and the proceeding under Section 41 of U.P. Land Revenue Act was contested between the respondents and others which has been finalized by dismissing the appeal filed by respondent no.7 (vendor of petitioner), as such, no case of interference is made out by this Court under Article 226 of the Constitution of India by way of writ of mandamus to deliver possession to petitioner in compliance of administrative order/ report of the authority.

8. Writ petition is misconceived and is accordingly **dismissed**.

Order Date :- 7.12.2023

Vandana Y.