

Court No. - 47

Case :- WRIT - C No. - 39957 of 2023

Petitioner :- Charan Singh

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

Counsel for Petitioner :- Pavan Kumar Kushwaha, Subedar Mishra

Counsel for Respondent :- C.S.C, Sher Bahadur Singh

Hon'ble Manish Kumar Nigam, J.

1. Heard learned Counsel for the parties and perused the record.

2. The present petition has been filed for the following relief:

"I. Issue the writ, order or direction in the nature of certiorari to quash the impugned order dated 25.04.2023 passed by Addl. Commissioner (Judicial), Bareilly in Case No.577/2023, Computerized Case No.C202312000000577 (Charan Singh Vs. State of U.P.) under Section 333 of U.P.Z.A. & L.R. Act (Annexure No.2 to this writ petition) and order dated 3.12.2021 passed by Sub Divisional Magistrate, Bareilly in Case No.146 of 2008-09 (Computerized Case No.T202112130602847 (Gaon Sabha Vs. Roopa and others) under Section 176Ka2 of U.P.Z.A. & L.R. Act (Annexure No.3 to this writ petition).

II. Issue the writ, order or direction in the nature of mandamus commanding the respondent authorities respondent authorities not to construction the cow shelter in the petitioner's land during pendency of the present writ petition."

3. The brief facts of the case are that in Case No.146/2008-09 (Gaon Sabha Vs. Roopa and others) in proceedings under Section 176 Ka-2 and Section 202 of U.P.Z.A. & L.R. Act, an order was passed on 29.4.2009 by the S.D.M., Meerganj cancelling the Patta of the petitioner and further directing that the land to be recorded in the name of Gaon Sabha. Against the order dated 29.4.2009, the petitioner preferred a revision being Revision No.32 of 2009-10 before the Commissioner, which was allowed by the appellate court by the order dated 13.4.2012 and the order dated 29.4.2009 was set aside and the order was remanded for decision afresh. After the remand, again the objections filed by the petitioner were rejected by the order dated 24.9.2012 passed by S.D.M., Meerganj, Bareilly directing the land to be recorded in the name of Gaon Sabha. Against the order dated 24.9.2012, Revision No.01 of 2012-13 was filed by the petitioner, which was again allowed by the order dated 22.8.2015 and the matter was remanded to the respondent no.3 to be decided afresh in view of the directions issued by the appellate court. The aforesaid proceedings after remand are pending.

4. Contention of learned Counsel for the petitioner is that during the pendency of the aforesaid proceedings, Gaon Sabha tried to construct a Gaushala on the land in dispute and the petitioner, therefore, moved an application in the pending proceeding that Gaon Sabha be restrained from constructing Gaushala over the

land in dispute. The application so filed by the petitioner was rejected by the respondent no.3 by its order dated 3.12.2021. Against the order dated 3.12.2021, the petitioner preferred a revision before the Commissioner and the same has been rejected by the order dated 25.4.2023. While rejecting the revision, the revisional court has directed the respondent no.3 to decide the pending case within a period of three months.

5. Contention of learned Counsel for the petitioner is that though the respondent no.2 has directed that the proceedings may be concluded within a period of three months but has not granted any order till conclusion of the proceedings as the Gaon Sabha has passed a resolution for construction of Gaushala over the land in dispute. It has been further contended by learned Counsel for the petitioner that on two earlier occasions, orders were passed against the petitioner, which was set aside by the revisional/appellate courts and the matter was remanded, which is still pending.

6. Learned Standing Counsel has opposed the prayer made by the petitioner and has contended that the orders passed by the court below are perfectly just and the proceedings will be completed within a period of three months as directed by the respondent no.2 while rejecting the revision of the petitioner, but could not deny the fact though the proceedings were to be concluded within three months what was the urgency of not considering and granting interim protection to the petitioner, specially when the Gaon Sabha has already passed a resolution for construction of a Gaushala over the land in dispute till conclusion of the pending proceedings.

7. In my view, no useful purpose would be served in keeping this petition pending since the revisional court has already been directed for disposal of the proceedings in next three months. The parties may maintain status quo till the proceedings are concluded by the respondent no.3 in compliance of the directions issued by the respondent no.2 vide order dated 25.4.2023.

8. With these observations, the writ petition is **disposed of**.

Order Date :- 22.11.2023

S. Singh